

Growing tendencies of isolation and alienation policies

Practices of restricting freedom of
movement in the context of protracted conflicts



SOCIAL
JUSTICE
CENTER

**Growing isolation and alienation policies –
Practices of restricting freedom of movement in the context
of protracted conflicts**

Social Justice Center
2024



The study was prepared as part of a project 'Encouraging Conflict Transformation by Critically Rethinking Conflict-Related History and Empowering Women's Perspectives', supported by the Swedish International Development Cooperation Agency (SIDA) and Kvinna Till Kvinna.

SIDA and Kvinna Till Kvinna may disagree with the views presented here. The group of authors is solely responsible for the content of the material.

Head of research: Tamta Mikeladze

Research author: Teona Piranishvili

Research Assistants: Nana Gogokhia, Eto Kopaliani

Editor: Medea Imerlishvili

English translation: Mariam Tchubabria

Cover design: Salome Latsabidze

Reprinting, reproduction or distribution for commercial purposes without the written permission of the organization is prohibited.

Citation: *Social Justice Centre, Teona Piranishvili, Nana Gogokhia, Eto Kopaliani, Growing isolation and alienation policies – Practices of restricting freedom of movement in the context of protracted conflicts”, 2024*

© Social Justice Center

Address: I. Abashidze 12b, Tbilisi, Georgia

Tel: +995 032 2 23 37 06

<https://socialjustice.org.ge/>

info@socialjustice.org.ge

<https://www.facebook.com/socialjustice.org.ge>

Summary

RESEARCH OBJECTIVE AND METHODOLOGY:.....	4
CHAPTER 1: POSITIVE PEACEBUILDING AND HUMAN RIGHTS.....	5
CHAPTER 2: POLICY DYNAMICS AND RIGHTS ANALYSIS.....	8
2.1. MOVEMENT ALONG THE CHECKPOINTS.....	8
<i>i. Crossing in the direction of Abkhazia</i>	<i>10</i>
<i>ii. Crossing in the direction of Tskhinvali Region</i>	<i>12</i>
<i>iii. Infrastructure at checkpoints</i>	<i>14</i>
<i>iv. Carrying cargo through checkpoints</i>	<i>17</i>
<i>v. 'Unofficial crosspoints'</i>	<i>20</i>
2.2 DOCUMENTS AND PROCEDURES REQUIRED FOR MOVEMENT ALONG THE DIVIDING LINE..	24
<i>i. Documents and Procedures Required for Movement to/from Abkhazia</i>	<i>24</i>
<i>ii. Requirements imposed by the de facto administration of the Tskhinvali region</i>	<i>33</i>
2.3. SECURITY AT THE DIVIDING LINE AND THE INCIDENTS OF ILLEGAL KIDNAPPING/DETAINMENT	36
<i>i. Women's movement and safety at the dividing line</i>	<i>41</i>
2.4. THE ISSUE OF INTERNATIONAL MOVEMENT FROM THE CONFLICT REGIONS.....	44
2.4. LAW ON OCCUPIED TERRITORIES.....	51
2.5. LEGAL AND SOCIAL CONSEQUENCES OF RESTRICTION OF FREEDOM OF MOVEMENT	53
<i>i. Access to education.....</i>	<i>54</i>
<i>ii. Access to health care</i>	<i>58</i>
<i>iii. Social and economic situation</i>	<i>61</i>
<i>iv. The right to family and private life.....</i>	<i>63</i>
3. INTERNATIONAL LEGAL STANDARDS OF FREEDOM OF MOVEMENT	66
CHAPTER 3 - INTERNATIONAL EXPERIENCE.....	73
3.1. MOLDOVA	73
3.2. CYPRUS	82
CHAPTER 4 - CONCLUSION AND RECOMMENDATIONS	86

Research Objective and Methodology:

The purpose of the study is to analyze the legal and political dimensions of the implementation of freedom of movement in the context of protracted conflict and to offer the state, international organizations and other actors alternative visions and recommendations to protect the rights and interests of the conflict-affected population. The study demonstrates the political and legal reality in which different conflict-affected groups have to move between controlled and uncontrolled areas, or abroad. The study presents the impact of unresolved conflicts, isolationist policies and restrictive regimes of movement on the realization of the rights of different conflict-affected communities and on intercommunal relations. For that purposes, the following groups are examined: IDPs, the population living in the Georgia-controlled territory, nearby the dividing line; Population living in conflict regions - Abkhazia and Tskhinvali region and ethnically Georgian population living in the same regions (Gali and Akhagori population).

The study presents an analysis of international standards of freedom of movement and the experience of other countries in similar contexts. The recommendations presented in the study are based on the local context and positive international experience.

Several research methods have been employed throughout the study, encompassing:

1. Desk research. As part of desk research, we examined open and credible sources that provide insights into the current conditions within conflict regions. These sources included recent reports and studies from local human rights advocates and international organizations, as well as media coverage.

2. Examination of international legal standards, primarily drawing from pertinent rulings of the European Court of Human Rights.

3. Interviews and fieldwork: Interviews and fieldwork were conducted by a team of researchers, based on a pre-designed questionnaire to facilitate in-depth discussions with diverse groups affected by the conflict. This involved conducting interviews and focus groups, as well as visiting villages situated near the dividing line. Field research took place from May to August 2023. Due to existing constraints, direct visits to conflict regions for face-to-face interviews were not feasible. Nevertheless, remote interviews were conducted with respondents from Abkhazia (4 interviews) and the Tskhinvali region (3 interviews), who had temporarily relocated to Georgia's controlled territory for various reasons (their places of origin included Gali, Tkvarcheli, Tskhinvali, and Akhagori). Local contacts, particularly individuals from conflict zones (2 from Sokhumi, 1 from Ochamchire, and 1 from Tskhinvali), provided valuable insights and information regarding movement-related issues. Researchers also engaged with displaced and conflict-affected populations in 16 villages near the dividing line, including locations such as - Zugdidi Municipality: Ganmukhuri, Shamgona, Khurcha, Akhali Abastumani; Tslenjikha Municipality: Pakhulani, Tskoushi, Muzhava, Potkho-Epseri; Gori Municipality: Ergneti, Nikozi, Gugutiantkari, Koshka, Zardiantkari, Kirbali, Mejriskhevi, and Patara Khurvaleti (Bobnevi). In total, 29 in-depth interviews have been conducted with residents from these villages - including 7 internally displaced persons. Additionally, 3 interviews have been held with individuals employed in various professions in conflict regions, notably in Abkhazia, who have maintained close ties with the rest of Georgia. During these interviews, the following topics were explored: 1. Documentation and procedure required for movement 2. Opportunities and challenges for

international travel for individuals residing in conflict areas 3. Functionality of checkpoints. 4. Security, illegal kidnappings and detentions, and 5. the enduring repercussions of borderization.

4. Field visits to active and defunct checkpoints and observational research. Visits were conducted to nearly all operational and decommissioned checkpoints, where observations and on-site interviews with the local population took place. Notably, interviews were conducted directly on the Enguri Bridge, a bustling passage for citizens moving in both directions. Throughout this endeavor, a total of 43 respondents were interviewed, comprising 14 men and 29 women, traveling towards Abkhazia and Tskhinvali/South Ossetia.

5. Expert Interviews: Throughout the preparation of the report, we conducted in-depth interviews with human rights defenders and experts who have been working with conflict-affected populations for many years and are actively involved in peace processes. A total of 7 interviews were conducted for this purpose.

6. Analysis of Public Information from State Agencies: In the process of compiling the report, we also analyzed public information and statistics provided by state agencies, including the Office of the Minister of State for Reconciliation and Civil Equality, the Ministry of Internal Affairs, the State Security Service, the Ministry of IDPs from the Occupied Territories, Labor, Health and Social Protection, the International Education Center, Service Development Agency, and the Supreme Court of Georgia. However, obtaining public information from state agencies posed significant challenges, which made it difficult for us to verify certain data.

Chapter 1: Positive peacebuilding and human rights

In light of the protracted conflict in Georgia, the legal status of the conflict-affected population is increasingly precarious with each passing year. It is evident that addressing rights issues often coincides with challenges in the trajectory of conflict transformation. Within academic discourse, a recurring question is whether resolving conflicts will automatically lead to the protection of human rights, or conversely, whether safeguarding human rights can facilitate conflict transformation. Academic literature frequently underscores the interconnected nature of conflict resolution, sustainable peacebuilding, and human rights protection.¹

Discussion often revolves around the complexities of integrating human rights into the peacebuilding process, given that human rights operate within defined legal-normative frameworks that may not always align seamlessly with peacebuilding endeavors.²

Nonetheless, it is widely acknowledged that peace agreements and processes frequently address human rights concerns, with human rights considerations sometimes forming part of conflict prevention or post-conflict resolution strategies. A prominent illustration of this is found in the

¹ The role of human rights in peace and mediation processes, 22.06.2022, available at: <https://www.ohchr.org/en/speeches/2022/06/role-human-rights-peace-and-mediation-processes>; See also: Michele Parlevliet, Resolving conflict between human rights and peacebuilding, <https://www.c-r.org/news-and-insight/resolving-conflict-between-human-rights-and-peacebuilding>

² Riva Kantowitz, Advancing the Nexus of Human Rights and Peacebuilding, development dialogue paper No 27, 2020, available at: https://www.daghammarskjold.se/wp-content/uploads/2020/02/dd-paper_no27_hr-peace.pdf 3. https://www.daghammarskjold.se/wp-content/uploads/2020/02/dd-paper_no27_hr-peace.pdf p. 3.

founding charter of the United Nations, where the primary objective is not only to achieve lasting peace but also to uphold international legal principles and justice. Clearly, preventing or halting violence and widespread human rights abuses is integral to peacebuilding.

From a national security standpoint, peace has traditionally been understood merely as the absence of war.³ However, this narrow conception of peace has gradually evolved over time. Peace is now viewed through a broader lens, encompassing more than just the absence of violence and armed conflict.

Johann Galtung was among the pioneers in distinguishing between negative and positive peace, arguing⁴ that negative peace—merely the absence of violence—is insufficient and does not guarantee lasting peace.⁵ A negative peace encompasses a temporary halt to hostilities or combat, yet the freezing of status-quo allows for subsequent human rights violations to occur.⁶ Beyond the context of war, positive peace encompasses notions of social justice, equity, cooperation, community engagement, effective governance, and democracy.⁷ In this context, ‘true peace is not the absence of conflict, but the presence of justice.’⁸ Positive peace is realized when conflicting parties interact in a non-violent way and manage their disagreements constructively.

Peace research, once predominantly focused on negative peace, began shifting towards the concept of positive peace in the 1980s and 1990s. This transition from conflict resolution to conflict transformation and peacebuilding broadened the scope of peacebuilding efforts. Since 2005, the United Nations, alongside its traditional peacekeeping endeavors, has institutionalized sustainable peacebuilding initiatives.⁹ Post-Cold War peacekeeping missions have expanded their focus beyond violence prevention to include building sustainable peace, encompassing security, rule of law, institution-building, humanitarian assistance, human rights, and development projects.¹⁰ The construction of sustainable peace has become increasingly complex and multi-layered, guided by the principles of positive peace and human security in both theory and practice. Both of these concepts conceive peacebuilding as a comprehensive, long-term process involving the establishment of resilient institutions, democratic governance, and the protection of human rights, economic and social well-being, as well as national and physical security.¹¹

Hence, the concepts of positive peace and human security are closely linked and may even be seen as mutually dependent, especially in the context of prolonged conflicts where a definitive political resolution remains elusive over an extended period. Consequently, achieving sustainable (positive) peace entails more than just securing a ceasefire agreement; it also entails establishing

³ Patricia M. Shields, "Limits of Negative Peace, Faces of Positive Peace," *Parameters* 47, no. 3 (2017), p.6.

⁴ Burak Ercoşkun, On Galtung's Approach to Peace Studies, *Lectio Socialis Review Article* January 2021, Volume 5, Issue 1, pp. 1-7.

⁵ Galtung, J. (1996). *Peace by peaceful means: Peace and conflict, development and civilization*. Oslo, Norway: Peace Research Institute Oslo.

⁶ Abu Bakarr Bah & Nikolas Emmanuel (2020) Positive Peace and the Methodology of Costing Peacebuilding Needs: The Case of Burundi, *Administrative Theory & Praxis*, 42:3, pp. 299-318,

⁷ Shields, P., & Soeters, J. (2017). Peaceweaving: Jane Addams, positive peace, and public administration. *American Review of Public Administration*, 47(3), pp. 323–339.

⁸ Martin Luther King Jr.

⁹ Patricia M. Shields, "Limits of Negative Peace, Faces of Positive Peace," *Parameters* 47, no. 3 (2017), p. 11.

¹⁰ EDWARD NEWMAN, A Human Security Peace-Building Agenda: *Third World Quarterly*, 2011, Vol. 32, No. 10, State Building, Security and Development (2011), pp. 1737-1756

¹¹ Teona Piranishvili, Human Rights for Peacebuilding. Pg 5-6.
[https://socialjustice.org.ge/uploads/products/pdf/ადამიანის უფლებები მშვიდობის მშენებლობისთვის \(1\) 1625056257.pdf](https://socialjustice.org.ge/uploads/products/pdf/ადამიანის უფლებები მშვიდობის მშენებლობისთვის (1) 1625056257.pdf)

conditions wherein individuals feel secure and are able to coexist harmoniously without compromising their rights, freedoms, and interests.

An unequivocal illustration of this theory is the research¹² conducted on daily peace indicators in Georgia in 2022, which shows that understanding of peace in the context of protracted conflict is related to a number of social, economic, legal issues, in addition to political or national security issues.

Among the various indicators, freedom of movement holds significant importance, highlighting its status as a rights issue that resonates across all groups impacted by the conflict. The research, spanning seven regions both within and outside the conflict zone - Gali, Akhalkori, Sokhumi, Tskhinvali, Tbilisi, Gori, Zugdidi - underscores that freedom of movement serves as a cornerstone of everyday-life peace. Its realization significantly influences people's sense of security amid the protracted conflict conditions.

Gali: There is peace when:

- 'You can move freely and are not afraid that the 'border' will be closed tomorrow'
- 'You can travel to foreign countries'

Sokhumi: There is peace when:

- 'You can travel freely abroad'

Zugdidi: There is peace when:

- 'the road is open and only only IDPs, but everyone will be able to travel'
- 'you can trade freely and are able to transfer goods'

Akhalkori: There is peace when:

- 'As an old person, you are not missing your grandkids'
- 'You can, on your own will, travel as you like and nobody looks at you in a suspiciously'

Gori: There is peace when:

- 'There is a lack of fear of being abducted'
- 'You can freely visit the graves of your relatives'
- 'You know, that you can visit relatives, friends, acquaintances on the other side of the dividing line.'

Tskhinvali: There is peace when:

- 'You are not refused to cross the border (with Russia) because of a lack of documents'.

Tbilisi: There is peace when:

¹² Ketevan Murusidze, Natia Chankvetadze, Everyday Peace Indicators in Conflict-Affected Communities, 2022. Available at: <http://www.researchpeace.org/item-details/d59rczax?lang=ge>

- ‘You can move freely [to the other side of the dividing line]’
- ‘Even during easter, you can visit the graves of family members [in Abkhazia nad Tskhinvali region/South Ossetia]’
- ‘One can freely move anywhere.’

Displacement has emerged as a shared concern for all groups affected by the conflict, impacting the peaceful livelihoods of these populations. The study's analysis and findings carefully consider the interests of all affected groups regarding freedom of movement.

Chapter 2: Policy dynamics and rights analysis

2.1. Movement along the checkpoints

Beyond the demarcation line separating Georgian-controlled territories, movement occurs through checkpoints, the quantity of which has fluctuated over time. These checkpoints are denoted by a combination of two names: one representing a village situated in the non-Georgian-controlled territory and the other indicating a village on the opposite side, within Georgian-controlled territory.

Following the 2008 Russia-Georgia war, the dividing lines have been overseen by the Russian Federal Security Service since April 30, 2009. Agreements were reached on this date between the Russian Federation and the de facto presidents of South Ossetia/Tskhinvali and Abkhazia regarding ‘joint measures to protect the state border of the Republic of South Ossetia/Abkhazia’.¹³

The Georgian authorities considered the signing of these agreements as a breach of the ceasefire accords established on August 12, 2008.¹⁴ As reported in the May 2009 report by the UN Secretary-General, beginning May 1, 2009, Russian border guard units were noticed in the security zone where UN mission personnel were stationed as part of a monitoring mission. According to the report, Russian border guards obstructed the movement of UN mission officers and patrols, compelling them to seek alternative routes.¹⁵ It is worth noting that the UN mission concluded its mandate on June 18, 2009, subsequent to Russia's veto of a Security Council resolution proposing the extension of the UNOMIG mission, thereby concluding the 15-year UN monitoring initiative.¹⁶

As per the referenced agreements, the responsibility of the Border Division of the Russian Federal Security Service is to safeguard the ‘border’ of the occupied regions and execute the ‘borderization’ process. Consequently, a more stringent ‘border’ control regime was instituted. Beginning in 2009, checkpoints were installed along the occupation line, and access across the so-called ‘border’ was restricted solely to these checkpoints.

¹³ Соглашение между Российской Федерацией и Республикой Абхазия о совместных усилиях в охране государственной границы Республики Абхазия, available at <http://www.kremlin.ru/supplement/190>; On the signing of the Agreement between the Russian Federation and the Republic of Abkhazia on joint efforts to protect the state border of the Republic of Abkhazia: Order of the President of the Russian Federation of March 20, 2009 No. 173-rp. - Moscow, 2009. Available at: <https://www.prilib.ru/en/node/431726>

¹⁴ Report of the Secretary-General pursuant to Security Council resolutions 1808 (2008), 1839 (2008) and 1866 (2009), S/2009/254, 18 May 2009, par. 9.

¹⁵ Ibid, par.19-21.

¹⁶ Russia Vetoes Resolution on U.N. Peacekeepers in Georgia, 15.06.2009, available at: <https://www.washingtonpost.com/wp-dyn/content/article/2009/06/15/AR2009061503047.html>

Until 2013, only one crossing point operated in the direction of Abkhazia, namely, the Enguri Bridge. However, in 2013, five additional crossings were established: Shamgona-Tagiloni, Khurcha-Nabakevi, Orsantia-Otobaia, Pakhulani-Saberio, and Ganmukhuri-Fichori. This expansion was perceived as a positive step from the Abkhazian side, aimed at enhancing freedom of movement and living conditions for residents in Abkhazia and along the dividing lines.¹⁷ Nevertheless, between 2016 and 2017, most checkpoints were shut down, leaving only two operational today: the Enguri Bridge and Saberio-Fakhulani crossing.

Regarding the Tskhinvali region, up until 2016, three 'official' checkpoints existed: Odzisi-Mosabruni, - or the Razdrakhani crossing, linking Mtskheta-Akhalgori, - Sinaguri and Kardzmani-Perevi checkpoints in Sachkhere municipality. However, due to the Chorchana crisis, all points were closed between 2019 and 2022.¹⁸ Subsequently, in August 2022, the Odzisi-Mosabruni checkpoint reopened, albeit with limitations, operating only from the 20th to the 30th of each month, corresponding to ten days each month.¹⁹ In exceptional circumstances, such as holidays, the Sinaguri and Kardzmani-Perevi crossings in Sachkheri municipality may also open.²⁰

**Note: It is important to clarify that the terms 'official' and 'unofficial' passages used in this study do not confer legality and are not intended to confer any legitimate status upon them. The establishment of any checkpoint and traffic regulations along the administrative line is illegitimate and contravenes the principles of international law, thereby undermining the territorial integrity and sovereignty of Georgia. When referring to 'official' and 'unofficial' passages, the authors of the study are distinguishing, on one hand, the checkpoints established by de facto and occupation regimes for traffic control, and on the other hand, the pathways utilized by local populations to circumvent these 'official' checkpoints.*

As per the information of the State Security Service, detailed movement statistics are not compiled in the context of occupied regions, making it challenging to ascertain the daily number of individuals crossing the dividing line and to determine fluctuations following the opening or closure of crossings.²¹ However, based on data provided by the Security Service on April 10, 2023, an estimated 1,000 people traverse towards Abkhazia daily, while around 200 individuals move in the direction of the Tskhinvali region. It is noteworthy that in 2020, when crossings were fully operational on the Enguri Bridge (following arbitrary restrictions in 2019), daily movements reached 1400-1500 individuals. However, amid pandemic-related traffic constraints in 2021, this figure plummeted to 20-30 individuals per day.²² As of 2024, the *de facto* administration of Gali reported that 2,500 people were crossing the Enguri Bridge on a daily basis.²³

¹⁷ The impact of the closure of so-called checkpoints on the legal situation of the population living in the occupied territories in 2019-2020, special report of the Public Defender, 2021, p.4

¹⁸ Letter from the State Security Service of Georgia, dated April 10, 2023, # ssc 7 23 00084210.

¹⁹ Akhalgori residents waiting for opening the road, Radio Liberty, 19 August, 2022. Available at: <https://www.radiotavisupleba.ge/a/31995909.html>

²⁰ For example, in 2023, the de facto authorities of Tskhinvali 'opened the border' for the populations of Akhalgori and Java; The crosspoints of Perevi and Mosabruni were opened for Easter on 14 April, from 8 a.m to 18 April 8 p.m. <https://palitraneews.ge/video/218358-ec-sazgvari-ixsneba-cxinvalis-de-pakto-mtavroba-saagdgomod-ec-sazgvars-gaxsnis/>

²¹ Letter from the State Security Service of Georgia, dated April 10, 2023, # ssc 7 23 00084210.

²² The impact of the closure of so-called checkpoints on the legal situation of the population living in the occupied territories in 2019-2020, special report of the Public Defender, 2021, p.8.

²³ There is a serious situation in terms of population outflow from Gali - de facto administration, Radio Liberty, 29 February 2024. Available at: <https://www.radiotavisupleba.ge/a/32842174.html>

Residents of conflict-affected areas such as Gali and Akhagori perceive the irregular opening and closing of checkpoints as a significant challenge. Over the years, decisions to close checkpoints by representatives of the *de facto* government have been made without prior notification to the population, often citing various 'threats' originating from Georgian-controlled territory. Checkpoints are frequently shuttered during Georgia's electoral periods,²⁴ mass gatherings, holidays, and national examinations to deter local youth participation. This practice²⁵ of unpredictably and arbitrarily closing checkpoints negatively impacts residents of conflict areas, particularly those in Gali and Akhagori. They find themselves unable to access essential services available in Georgian-controlled territory, significantly affecting their daily living conditions.

i. Crossing in the direction of Abkhazia

The length of the occupation line stretching towards Abkhazia spans approximately 145 kilometers. Abkhazia's territory shares borders with several municipalities in the Samegrelo region, specifically Zugdidi and Tsalenjikha municipalities. Checkpoints are positioned within these municipalities, along the Gali-Tslenjikha and Gali-Zugdidi road sections.

Drawing from various accessible sources and synthesizing respondent interviews, it has been determined that until 2008, the *de facto* Abkhazian administration formally acknowledged only the Enguri Bridge as a route to traverse from Abkhazia to Georgian-controlled territory. Subsequently, between 2008 and 2013, additional checkpoints were gradually introduced: Shamgona-Tagiloni, Khurcha-Nabakevi, Orsantia-Otobaia, Tskoushi/Pakhulani-Saberio, and Ganmukhuri-Fichori crossings. Presently, only the Fakhulani crossing and the Enguri Bridge remain operational. (These crossings were also closed from March 14, 2020, to February 11, 2021, due to the Covid-19 pandemic)²⁶. Additionally, transport and equipment are also moved through the Pakhulani-Saberio crossing point, which now serves the unimpeded operation of the Engur HPP.

Movement using the five checkpoints was more frequent, with checkpoints being actively used by the population of Gali (and not only), including students and patients.²⁷ Increasing traffic was, in turn, an important element in rebuilding ties between divided societies.

The practice of closing the crossings started in 2016, - in April, the Shamgona-Tagiloni²⁸ and Ganmukhuri-Fichori checkpoints were closed, and in March 2017, the Khurcha-Nabakevi²⁹ and Orsantia-Otobaia checkpoints stopped functioning³⁰. The closure of the crossings, which were vital for the residents of Gali, especially those living near the dividing line, proved to be a heavy burden. The movement became more limited and difficult, as they had to cross additional 20-25

²⁴ Checkpoints closed for elections, Radio Liberty, 7 October 2016. <https://www.radiotavisupleba.ge/a/chaketili-gamshvebi-punktebi/28037981.html>

²⁵ Parliamentary report of the Public Defence on human rights, p. 20.

²⁶ Abkhazian 'border strengthened' with new barbed wire, Radio Tavisupleba, 8 December, 2020; available at <https://shorturl.at/cxEPR>

²⁷ The impact of the closure of so-called checkpoints on the legal situation of the population living in the occupied territories in 2019-2020, special report of the Public Defender, 2021, pg 4-5.

²⁸ One crossing point at the ABL, connecting Abkhazia and Samegrelo, closed – Radio Tavisupleba, April 2016, available at: <https://www.radiotavisupleba.ge/a/gamshvebi-pukktis-gaukmeba/27682150.html>

²⁹ Discussion was held on the human rights conditions in the conflict-affected regions, Interpressnews, 2017, available at: <https://www.interpressnews.ge/ka/article/463441-konfliktit-dazaralebul-regionebshi-adamianis-uplebebis-mdgomareobaze-diskusია-gaimarta/>

³⁰ State Security Service report, 2017, p. 6.

kms³¹. The de-facto president of that time, Raul Khajimba, explained the closing of the crossings with the motive of ‘strengthening state security’.³²

Some analysts attribute the significant shift in policy of movement/crossings from 2013 to 2016 to alleged resource constraints within the *de facto* and occupation regime.³³ Additionally, an isolationist and anti-Georgian stance intensified during the tenure of *de facto* President Khajimba, contrasting with his predecessors Bagapshi and Ankvabi. It was under Khajimba's leadership that Gali population were designated as ‘foreign citizens’ and the issuance of residence certificates commenced, following Ankva's earlier move to revoke Abkhazian passports from them. This radical U-turn in Abkhazian internal politics may also explain the reduction in crossing points.

Following the pandemic-induced restrictions, the operation of two crossings was reinstated on February 11, 2021³⁴. Presently, the Saberio-Pakhulani checkpoint is primarily utilized by Enguri hydroelectric station employees, while the so-called checkpoint on the Enguri Bridge is predominantly used by ethnic Georgians residing in Gali³⁵. Those residing outside the Gali region, specifically ethnic Abkhazians, require a ‘permit’ from the *de facto* security service to enter Georgian-controlled territory. Additionally, these crossings facilitate the transit of Abkhazian patients participating in the referral service program, seeking medical treatment in Georgian-controlled territory.

The arbitrary and temporary closure of checkpoints is a frequent practice, notably utilized by *de facto* authorities from 2019 to 2020. Such closures may occur for various reasons. For instance, in early 2019, amid the H1N1 flu virus outbreak, the sole operating checkpoint at that time was shut down³⁶. Exceptions were made solely for patients possessing a medical necessity certificate from a local medical institution. Similarly, in June of the same year, amidst ongoing anti-occupation protests in Tbilisi (the events of June 20), the Enguri Bridge was closed, adversely affecting students traveling across Georgian-controlled territory to sit for national exams³⁷. Furthermore, in November 2019, following a double homicide in Sukhumi, the Enguri Bridge was closed, with residents being informed of the checkpoint closure merely hours beforehand.³⁸

Subsequently, amid the Covid-19 pandemic, traffic on the Enguri Bridge was severely restricted for nearly a year. Following this period, the ‘border’ was partially reopened, albeit with specific limitations—solely for pensioners, allowing passage three times a week to the end of the bridge, where a bank vehicle awaited them for pension disbursement. In 2021, through the proactive engagement of the Office of the United Nations High Commissioner for Refugees, efforts led to

³¹ The impact of the closure of so-called checkpoints on the legal situation of the population living in the occupied territories in 2019-2020, special report of the Public Defender;

³² Raul Khajimba plans to close down five crossing points on Enguri, Netgazeti, 2014, available at: <https://netgazeti.ge/news/35442/>

³³ Interview with an expert in International relations and politics (anonymous), 19 December 2023.

³⁴ Tea Akhvlediani says crosspoint on Enguri bridge opened today. Radio Tavisupleba, 2021, February. Available at: <https://www.radiotavisupleba.ge/a/31097330.html>

³⁵ The impact of the closure of so-called checkpoints on the legal situation of the population living in the occupied territories in 2019-2020, special report of the Public Defender, p. 5.

³⁶ Gali residents hold a demonstration on Enguri to protest closure of crossing point. 23 January, 2019, Netgazeti. Available at: <https://netgazeti.ge/news/335370/>

³⁷ Введено временное ограничение на пересечение государственной границы Республики Абхазия с Грузией, website of the de fact Security Service of Abkhazia, 27.06.2019. website of the de fact Security Service of Abkhazia, 27.06.2019.

³⁷ Restriction of free movement in Abkhazia and Tskhinvali regions, DRI, 2020. ხელმისაწვდომია: [https://www.democracymonitoring.org/files/61DRI%20report%20GEO%202020%20\(1\).pdf](https://www.democracymonitoring.org/files/61DRI%20report%20GEO%202020%20(1).pdf) p. 4.

³⁸ Ibid

the establishment of a humanitarian corridor, enabling vulnerable segments of Abkhazia's population (such as large families, socially disadvantaged individuals, and the disabled) to resume travel.

Later, the traffic on the Enguri bridge was restricted for almost 1 year already during the Covid pandemic, and after 1 year, the 'border' was opened with certain restrictions only for pensioners, only three times a week and to the end of the bridge, where the car of the pension issuing bank was waiting for them. In 2021, with the active involvement and efforts of the Office of the United Nations High Commissioner for Refugees, it became possible to open a humanitarian corridor and restore traffic for vulnerable groups of Abkhazia's population (large families, socially vulnerable, disabled people).

Moreover, during the pandemic, restrictions imposed by the *de facto* government were compounded by a mandatory 5-day quarantine mandate enforced by the central government. This imposed an additional burden on Abkhazia's population, especially those seeking medical treatment in Georgian-controlled territory. For individuals requiring urgent medical assistance, compliance with this requirement proved fatal. Tragically, a nurse from Gali fell victim to this stipulation while seeking medical care³⁹. In some instances, individuals sought to circumvent quarantine measures through unofficial means, resulting in fatal consequences. A stark illustration occurred on April 7, 2021, when four individuals lost their lives in a tragic accident at Enguri while attempting to evade quarantine.⁴⁰

ii. Crossing in the direction of Tskhinvali Region

The occupation line stretching towards Tskhinvali spans over 350 kilometers, bordering the municipalities of Sachkhere, Dusheti, Kaspi, Gori, and Kareli. Over time, three checkpoints have operated intermittently between the territory controlled by Georgian authorities and the Tskhinvali region, each named after local villages:

- Sinaguri (Синагур)
- Perev (Переу) - Karzman (Карзман),
- Odzii-Mosabruni (Razdakhan-Razdakhni).

Additionally, various crossings near villages along the dividing line, such as Akhmaji, Nikozi, and Zardiyantkari, have been utilized by small groups of people. These crossings, however, were not officially recognized and listed as 'official' crossings.

The so-called 'official' crossings are subject to periodic opening and closure based on decisions made by the Tskhinvali *de facto* security service. Odzisi-Mosabruni, also known as the 'Razdrakhani' crossing, linking Mtskheta and Akhgori municipalities, primarily serves Akhgori residents. Furthermore, two crossings in Sachkhere municipality, Sinaguri and Kardzmani-Perevi,

³⁹ Nurse from Gali who crossed from Abkhazia for a visit to doctor dies in quarantine. On.ge, 2021. Available at <https://on.ge/story/77944-ექიმთან-ვიზიტისთვის-გადმოსული-გალელი-ექთანი-საკარანტინე-სივრცეში-გარდაიცვალა>

Quarantine should be shortened so a person does not drown for a kilo sugar - Radio Liberty, 27 August 2020. Available at <https://www.radiotavisupleba.ge/a/30805707.html>

⁴⁰ Rescuers recovered three bodies of people who tried to enter Georgian-controlled territory from Gali. Interpressnews, 2021, available at: <https://www.interpressnews.ge/ka/article/650237-mdinare-enguridan-mashvelebma-3-adamianis-cxedari-amoiqvanes-isini-sakartvelos-xelisuplebis-kontrolirebad-teritoriaze-gadmosvlas-galidan-cdilobdnen>

have mostly remained closed as of 2023, although they are occasionally opened on holidays under exceptional circumstances.⁴¹

The Ergneti village in the Gori municipality holds particular significance, notably for its market that operated since the late 1990s. However, in 2004, the Georgian authorities suspended its operations as part of anti-corruption efforts. Despite this, the checkpoint in Ergneti did not primarily serve as a means of citizen movement control. Instead, Ergneti served as a vital hub for fostering Georgian-Ossetian trade relations and facilitating reconciliation efforts between the parties over the years.

‘When the Ergneti market was operational, it fostered closer relationships between Ossetians and Georgians, nearly bringing about reconciliation. Trade also bolstered the economic stability of families. It's disheartening to see such disruption to a market that played such a pivotal role in fostering reconciliation and unity among people.’⁴²

Since 2008, the Ergneti crossing has ceased daily operations for citizen check-ins. Presently, this section of the occupation line, located in the village of Ergneti, is overseen by two checkpoints - one Georgian, under the central government's control, and the other Russian, positioned just 50 meters away in the uncontrolled territory of Georgia. The area between the checkpoints serves as a neutral zone, hosting Incident Prevention and Response Mechanism (IPRM) meetings. This section is also utilized by the occupation regime's representatives for the transfer of unlawfully detained citizens to Georgia's central government or for prisoner exchanges. Moreover, the International Committee of the Red Cross utilizes this passage to provide medical support and facilitate the transfer of individuals to Georgian-controlled territory.⁴³

From 2010 to 2019, checkpoints operated normally, except for the closure of the Akhmadji crossing in 2010⁴⁴. However, from September 2019 to August 2022, all checkpoints leading to the Tskhinvali region were shut down.⁴⁵ This closure was prompted by the installation of a Georgian checkpoint in the village of Chorchana⁴⁶, perceived as a threat by the Ossetian side. Despite Georgia's assertion that the accusation was baseless and the refusal to dismantle the checkpoint, the *de facto* authorities closed the Odzisi checkpoint temporarily on September 4, 2019, citing threats from Georgia.⁴⁷ Although promised to be temporary, - per respondents' surveys during the research, - the checkpoint remained closed until January 2020, when it reopened for pensioners,

⁴¹ A conversation with a representative of the Office of the State Minister for Reconciliation and Civic Equality, June, 2023

⁴² Respondent from Ergneti village, 11/07/2023.

⁴³ A conversation with a representative of the Office of the State Minister for Reconciliation and Civic Equality, June, 2023

⁴⁴ One checkpoint is closed in Akhlagori, 2010 Radio Tavisupleba, available at: <https://www.radiotavisupleba.ge/a/1940134.html>

⁴⁵ Letter from the State Security Service of Georgia, ssc 7 23 00084210, 10 April 2023.

⁴⁶ What is happening at Chorchana, 2019, Netgazeti available at: <https://netgazeti.ge/news/389205/>

⁴⁷ The Chorchana-Tsnelisi crisis, humanrights.ge, 16 September 2019. Available at <http://www.humanrights.ge/index.php?a=main&pid=19955&lang=geo>

allowing elderly residents of Akhagori to collect their pensions and visit family members in Tserovani.⁴⁸

In February 2020, due to the Covid-19 outbreak, three checkpoints - Sinaguri, Perevi, and Odzisi-Mosabruni (Razdakhani) - were closed indefinitely by the decision of the *de facto* Security Council. This prolonged closure particularly impacted Akhagori residents, leaving them isolated and without means of livelihood.⁴⁹

From 2020 to August 2022, movement through all mentioned checkpoints was prohibited, precipitating a humanitarian crisis in the Tskhinvali region. Exceptions were made only for certain holidays.⁵⁰

On August 18, 2022, the *de facto* Security Council partially restored checkpoint operations. Under this decision, citizens were allowed to use the Odzisi-Mosabruni (Razdakhani) and Perevi-Kardzman checkpoints from the 20th to the 30th of every month until the end of 2022, totaling 10 days monthly.⁵¹ This schedule of movement has been maintained to this day. However, despite promises to ease movement restrictions and simplify freedom of movement regulations for Akhagori residents, these issues remain unresolved. Since January 2024, the process of granting passes to Akhagori residents has become somewhat easier in anticipation of the *de facto* parliamentary elections' in the Tskhinvali region later that year. Nonetheless, challenges persist, with not everyone being able to obtain passes. Notably, temporary passes for residents of the Tserovani IDP settlement originating from Akhagori (holding *de facto* 'passports' of South Ossetia) have also been reinstated, possibly due to pre-election considerations⁵².

iii. Infrastructure at checkpoints

Citizens have to go through control from both sides at checkpoints set up to move to areas beyond the dividing line. Respondents note that those wishing to cross first pass the Georgian checkpoint, then there is a neutral/buffer zone for about 1.5-2 kilometers, after which there is a Russian-Abkhaz, or respectively, a Russian-Ossetian checkpoint.

The initial indications of what is commonly referred to as 'borderization' emerged in 2009, although this phenomenon gained momentum in 2011 and escalated significantly in 2013. Presently, artificial obstacles such as fences, barbed wire, border markers, earthworks, and similar structures have been erected in 45 villages adjacent to conflict areas, effectively delineating what is termed as the occupation line.⁵³

Barbed wire can be observed running alongside villages along both the dividing line of Abkhazia and the former South Ossetian region, except in areas where the landscape obstructs its

⁴⁸ Road is close – pensioners did not return to Akhagori, Radio Liberty, 7 February 2020. Available at: <https://www.radiotavisupleba.ge/a/გზა-ჩაკეტეს---პენსიონერთა-ნაწილი-ახალგორში-აღარ-დაბრუნდა/30422528.html>

⁴⁹ Граница Южной Осетии с Грузией закрывается с 20:00 четверга, 2020. ხელმისაწვდომია: <https://cominf.org/node/1166528383>

⁵⁰ Ibid

⁵¹ De facto authorities eased the regime at the so-called border with Akhagori, Radio Liberty, 2019. Available at <https://bit.ly/37QQYOP>

⁵² Conversation with a contact person in Akhagori, 22 February, 2024.

⁵³ Borderization – creeping occupation, Georgian Foundation for Strategic and International Studies <https://gfsis.org/ge/maps/view/georgian-territories-occupied-by-russia>

installation. Near certain villages in the Tskhinvali region, there are indicators, also traversed by the Russian military, serving to demarcate the 'border' and signal its prohibition against crossing. Concerning Abkhazia, the Enguri River serves as an additional natural barrier, functioning both as a natural boundary and a hidden route between villages situated along the dividing line.

In the vicinity of the barbed wire, where there are settlements or arable land, warning banners are placed by the occupying forces, indicating that the 'state border' of the occupied territory begins and that movement is prohibited. Similar warning banners are mainly presented in the direction of Tskhinvali region, along the occupied villages. It is rarely found in the direction of Abkhazia. The inscription is mainly in Russian and Ossetian languages, sometimes also in Georgian.

If there are more security forces from Georgia at the active checkpoints, the same cannot be said about the already closed checkpoints. As observed from the visits to these places, the [closed-down] checkpoints are mainly located at the beginning of the villages along the dividing line. Control procedures for those who want to move to villages are also different. For example, in Samegrelo, in the direction of Shamgona, Khurcha, Ganmukhuri, Muzhava, movement is free and cars are not stopped, drivers or passengers are not checked. As for the municipality of Gori, when moving to the direction of the dividing line in almost all villages, it is necessary to obtain a prior permission for representatives of the media and non-governmental organizations. They also stop and check all the cars that are going to the villages of the dividing line (Mereti, Khurvaleti, Nikozi and others). There are cases when the law enforcement officers themselves accompany the car visiting the destination. It is forbidden to take pictures of checkpoints.

During the field survey, visual inspection of the checkpoints and areas beyond the dividing line was not feasible. However, insights from interviews with respondents indicate that joint inspections of individuals and control of goods transportation are conducted by Abkhazians and Russians, as well as Ossetians and Russians. Communication during these checks predominantly occurs in Russian.

Furthermore, the Russian military exercises control over the entire perimeter surrounding the dividing line, irrespective of the presence of checkpoints on the ground.

*'You see, there is a barbed wire at an arm's length. Nabakevi is beyond that. When I herd cows in the morning, I often see a Russian soldier with a dog. That's how they walk all day, every day, checking the perimeter.'*⁵⁴

According to local residents, surveillance cameras near the Abkhaz checkpoints monitor the territory for kilometers. Armed Russian soldiers, accompanied by trained dogs, patrol the area continuously, as observed by community members.

'Our village and the village of Gal are separated by Enguri. There used to be a footbridge here and people used to move. Then Abkhazians and Russians

⁵⁴ Respondent from Khurcha, village near the dividing line with Zugdidi. 22/06/2023

*destroyed it. When we go out in the evening, we often see the Russians with lit lanterns controlling the bank of Enguri. You can also hear the sound of their dogs. Perhaps they are looking for someone who may be trying to sneak in or out.*⁵⁵

As the respondents from Gali and Akhagori mentioned, the access roads to the checkpoints are organized, including from the non-controlled areas.

*'The central roads have been built in Gali, the transport also operates according to certain hours, from Gali to Enguri bridge. From Enguri Bridge to Gali. Then, from Gali, you can take another transport to Sokhumi, Ochamchire. It is more difficult to move from Gali to villages. Market days in Gali are Tuesdays and Thursdays, and transport from the villages to Gali is more common on these days, but mostly one vehicle... If you cross the bridge, taxis also stop in Gali and go to the villages of Gali. It is expensive, but there is no other way.'*⁵⁶

From the area around the central market of Zugdidi to the Enguri Bridge, a minibus runs daily, which is difficult to say is reliable (the minibus passes the Georgian checkpoint, the Enguri Bridge and takes citizens to the Russian/Abkhazian checkpoint). This transport is not adapted, but nevertheless it is a great benefit for those Gali residents who come to Zugdidi to transport household products and other things. It is also possible to reach Enguri Bridge by taxi. The taxi stops at the Georgians' checkpoint, from where the citizens, in most cases, walk the rest of the way.

Public transport does not run from Zugdidi to the Pakhulani-Saberio checkpoint, so the only means of transportation here are private transport and taxis, the price of which starts from 20 GEL. During the preparation of the research report, it became known that by the decision of the Tsalenjikha municipality, from July to the end of December 2023, twice a week, a minibus would run from the village of Pakhulani, through the cross, in the direction of Tsalenjikha for free, which in itself is an important help both for people who moved from the conflict regions and for the local population.

As for Akhagori, until July 23, 2023, it was possible to move to Akhagori by private transport, which was an expensive service for the local population.

'We, who live in Tserovani, are mostly from Akhagori. The checkpoint was closed so often that traffic stopped. Now, that it is possible to travel again, we are happy, but not all of us have the money for the taxi that should take us to the Akhagori crossing. It costs 100 GEL and more. We need money to move

⁵⁵ Respondent from Shamgona, village near the dividing line with Zugdidi. 21/06/2023

⁵⁶ Respondent from Gali, 23/06/2023

after we cross to the other side, don't we? We have to pay for the cargo, and all of this is already is very costly'.⁵⁷

According to the information of the Akhalgori Municipality Gamgeoba (local council), from July 23, 2023, IDPs living in Tserovani would have the opportunity to travel to the Akhalgori checkpoint by minibus. As clarified by the contact person, the said minibus leaves from Tserovani IDP settlement at 17:00 in the evening and returns after the checkpoint is closed. The fare is 5 GEL and the minibus runs during the 10 days that the checkpoint is open.

During the course of the research, it also became known that the Georgian checkpoint established new regulations at the Akhalgori checkpoint. In particular, those who do not have registration in Akhalgori, and/or those who have not written Akhalgori as a place of birth in their identity documents, will be restricted from moving from the Georgian-controlled territory to the Russian checkpoint.⁵⁸ This information was confirmed by the people living in Tserovni and Shavshebi IDP settlements, as well as by our contact person in Akhalgori, who noted that movement from the Georgian checkpoint to the Russian checkpoint is limited both by foot and by transport.⁵⁹

Based on the information provided by the respondents, the checkpoints are generally open from 8 AM to 7 PM.

There are waiting rooms at the checkpoints, but there are no public toilets. No drinking water is available either. During the COVID pandemic, medical booths were placed at the checkpoints, but today they have lost their function and are closed. According to the respondents, it would be nice if these booths played the role of first aid stations.

iv. Carrying cargo through checkpoints

Checkpoints serve not only to facilitate the movement of people but also to regulate the transportation of goods. Residents from conflict-affected areas primarily travel to the Georgian-controlled territory to purchase household goods and food items.

'Everything is expensive in Gali. Compared to Zugdidi, prices for everything there are three times and four times higher. The only things that are cheap are chocolate and cigarettes. That's why we go to Zugdidi when we need food products, household items, appliances.'⁶⁰

Cargo undergoes mandatory inspection, which includes scrutiny by Georgian law enforcement officers. The primary objective of these inspections is to monitor and prevent the transport of smuggled goods. However, Gali residents are uncertain, what good might they be smuggling [and why the inspection is necessary]

⁵⁷ Respondent from Akhalgori, residing in Tserovani, 15 July 2023.

⁵⁸ DRI: Akhalgori residents appeal to authorities to nullify new rule setting additional barriers on movement, 03.07.2023, <https://www.democracyresearch.org/geo/1253/>

⁵⁹ Focus group in the IDP settlements in Shavshvebi and Tserovani, 26 December 2023. Conversation with a contact person (anonymous) in Akhalgori, 26 October, 2023.

⁶⁰ Respondent from Gali district 23/06/2023

‘They stop us, check our cars, bags, and sometimes touch us physically for the purpose of checking. However, they know very well who is the so-called smuggler of cigarettes and who is not. Cigarettes are smuggled mostly by the same people, and they are often elderly, old women who are trying to earn a living, to survive. But we are all being checked.’⁶¹

Through interviews, it was revealed that residents lack clarity on the specific list and quantity of goods permitted or restricted for transportation at checkpoints. Information boards detailing allowable items and contact hotline numbers for cargo inquiries are absent at these checkpoints.

One interviewee stated, ‘When returning from Zugdidi, we might be stopped at the Georgian checkpoint and have our goods confiscated without explanation. They refuse to allow items like refrigerators or washing machines to pass. The reasons remain unclear, and no explanations are provided.’⁶²

During interviews, it emerged that law enforcement officers at Georgian checkpoints often contact a specific individual by phone to ascertain the type and quantity of items being transported. The decision to permit or deny transportation is then based on this remote consultation. However, respondents were unable to provide details such as a specific phone number, controlling agency, or the name of the person contacted. Subsequent clarification revealed that this individual is an employee of the Office of the State Minister of Georgia for Reconciliation and Civil Equality.

‘There are no clear guidelines on the quantity or type of cargo allowed for transport. Our police officers even refused to allow a Gali resident to transport more than 5 kilograms of cheese. We must seek permission from the Ministry of Reconciliation representative, but such ambiguity only fosters corruption risks. Decisions on cargo transportation should not be left to the discretion of individuals; clear laws and instructions are needed.’⁶³

In both Abkhazia and Akhagori, individuals are required to pay fees for transporting goods at the *de facto* checkpoints. However, there are instances of extortion where residents are forced to pay more than the stipulated amount outlined in *de facto* documents⁶⁴. The fee varies based on the type and volume of cargo.

⁶¹ Respondent from Gali district, 22/06/2023

⁶² Respondent from Gali district 22/06/2023

⁶³ Interview with human rights advocate Eka Gamakharia, 5 September 2023.

⁶⁴ Cargo transportation through the Abkhazian *de facto* border is regulated by the ‘law of Abkhazia on custom fee’. Available at: <https://customsra.com/wp-content/uploads/2023/06/zakon-respubliki-abkhazija-o-tamozhennom-tarife.pdf> The fee is calculated after submitting special code, based on individual characteristics

*'Sometimes we're asked to pay one amount, and other times it's a different sum. It depends on what we're carrying. Recently, I had a new laptop, and the Russians and Abkhazians demanded 1500 manats because of it.'*⁶⁵

There are also restrictions on transporting agricultural products. According to interviewees, Georgian authorities prohibit the transfer of large quantities of cheese, while Abkhazian authorities restrict the transportation of nuts and citrus fruits. Relevant public agencies did not share public information regarding cargo transportation regulations and legal bases for restrictions. The only known legal regulation is Article 6 of the Law on the Occupied Territories, which prohibits economic activity in these areas without a permit or license from Georgian legislation. However, it remains unclear to residents what types and quantities of cargo constitute economic activity. As the representatives of the central government explain to the population affected by the conflict, the transfer of various products for personal purposes is not restricted, and the restriction of the transfer of large volumes of products is related to the prevention of prohibited economic activities in the occupied territories.⁶⁶

However, hazelnuts and tangerines are vital sources of income for residents of Gali. The money earned from selling these products supports their health, education, and daily needs, - and it lasts until the next year's harvest.

*'We refrain from bringing nuts, grapes, or tangerines from Abkhazia due to limited transportation allowances. Although I can't recall the exact quantity permitted for personal use, as they call it, exceeding this limit incurs significant costs. So, throughout the year, we sell our crops locally at lower prices to sustain our families.'*⁶⁷

In March 2023, Aslan Bzhania, the *de facto* president of Abkhazia, issued new regulations altering the list and quantity of goods permitted for import from the controlled territory of Georgia. The updated restrictions encompassed items such as perennial and one-year crop seedlings, agricultural machinery and car parts, agricultural seeds, nursery material, among others⁶⁸. Restrictions on the transfer of goods were imposed by the *de facto* authorities of Abkhazia after the events of Kodori in 2008, however, after the full-scale war that began in Ukraine in 2022, the sanctions imposed by the international community against Russia changed the situation on the ground.

⁶⁵ Respondent from Gali district, 23/06/2023

⁶⁶ IPRM participants meet with women, Zugdidi, May, 2023 <https://smr.gov.ge/ge/news/read/2355/tea-axvlediani-samegrelos-regionshi-zugdidi-municipalitetsi-samushao-vizitis-farglebshi-konfliktit-dazaralebuli-soflebis-mosaxlebas-da-samoqalago-sazogadoebis-warmomadgenlebs-shexvda>

⁶⁷ Respondent from Gali district, 22/06/2023.

⁶⁸ Абхазские власти упростили торговлю через Ингурский мост, Ekhokavkaza. Апрель 12, 2023, ხელმისაწვდომია: <https://www.ekhokavkaza.com/a/%D0%B0%D0%B1%D1%85%D0%B0%D0%B7%D0%B8%D1%8F-%D0%B8%D0%BD%D0%B3%D1%83%D1%80%D1%81%D0%BA%D0%B8%D0%B9-%D0%BC%D0%BE%D1%81%D1%82-%D1%82%D0%BE%D1%80%D0%B3%D0%BE%D0%B2%D0%BB%D1%8F/32360098.html>

The issue of disseminating information about the closure of checkpoints is also often problematic. This information can be distributed a few hours before the closure, mainly on the pages of *de facto* district agencies, which is not enough to inform the population in time.

*'No one warns us. When they want, they will block the passage. No one explains the reason. How many times have we come to the bridge and it was closed. They don't even tell you when it will open, so sometimes we wait for hours, hoping that they will open it. Those who definitely need to move, then move secretly. Those who don't - go back.'*⁶⁹

In the direction of Akhgori, despite the fact that the Odzisi checkpoint has been opened since August 2022, for the last 10 days of each month, the population does not have the opportunity to move using cars and minibuses, which means that movement for commercial purposes is limited. In addition, 1 person is allowed to carry up to 50 kg of luggage.⁷⁰

v. 'Unofficial crosspoints'

In addition to the designated 'official' checkpoints, there exist 'unofficial' crossings along the occupation line, historically utilized by those residing in both the controlled territory of Georgia and the conflict regions. Despite the potential risks they pose to safety, some of these crossings persist in relevance to this day. Regrettably, their continued use underscores the necessity for alternative routes under the constraints of restricted movement.

In the direction of Abkhazia, the respondents named several unofficial crossings. These crossings are mainly used by people who do not have the necessary documents to travel.

*'There are places where the Enguri is not deep and it is relatively easy to cross, but suddenly the water level can rise and carry a person away.'*⁷¹

The water on the Enguri River rises periodically. As a rule, the administration of the Engurhesi Dam sends mobile messages with warning content to the residents of the villages located on the banks of the river about the release of water, however, since the citizens often change their mobile numbers, not everyone receives the information. Such a warning mobile message is received only by people living in the controlled territory of Georgia, who have numbers connected to the network of mobile companies operating in Georgia. What is happening on the side of the conflict regions is unclear.

'Unofficial crossings' were actively used during the pandemic, as checkpoints were closed.

Also, as a rule, the demand for them increases during the summer period until late autumn, when the educational process ends and young people left without documents, or those Gali residents

⁶⁹ Respondent from Gali District, 22/06/2023

⁷⁰ Ombudsman 2022 report, p. 326.

⁷¹ Respondent from Shamgona village, at the ABL with Zugdidi 21/06/2023

who have family members in Gali, go back to their homes. The same path is chosen by those Georgians who move to Gali for seasonal work collecting nuts or picking tangerines. All of them use the same way to return.

*'How many times have I sheltered a person who slipped Enguri out of an occupied Gali. They, completely wet, stayed at my place, before their clothes dried up. They mostly come and go at night. Now it's rare to sneak in like that, but they still take the risk.'*⁷²

In the past years, 'unofficial crossings' were actively used to smuggle cigarettes. As the locals explained to us, today the perimeter is strictly controlled from both sides, due to which the number of similar incidents has decreased.

When we talk about 'unofficial crossings', we should mention another widespread practice of crossing into Abkhazia, the so-called 'surrender'.

*'Transfer (surrender) is not difficult. The main thing is to have money. You will cross the line and surrender to the Russians. There, along with the official fine, they will make an additional unofficial amount. Then they keep you [detained] until the evening, because others may also be surrendered'. In the evening they will let you go to Gali. Then you can go wherever you want. You can also go back like this. Or stay and do the paperwork. This also needs money, however.'*⁷³

Respondents noted that many people know the contact numbers of Russian soldiers. As a result of calling them in advance, the date, time and amount of the required amount of 'handover' are agreed upon, and then the transfer is made at the appointed time. They move 'unofficially' with young children and families.

*'You see the wire? If I call the Russian, he will come in an instant. Or we will call them [on phone], talk, make an arrangement and that's it. He will wait for us behind the barbed wire on the appointed day and time. The main thing is that you should not run away. If you stop, he will come and take you away. If you run away, he will shoot you.'*⁷⁴

Obviously, 'surrender' is related to financial resources. Each person pays at least 1,500 rubles (about 40 GEL) after they 'surrender' to a Russian soldier. After continuing the road, he may be stopped at other checkpoints before arriving in Gali, and in case of not having a document, he may be asked to pay again.

⁷² Respondent from Shamgona village, at the ABL with Zugdidi 21/06/2023

⁷³ Respondent from Khurcha village, at the ABL with Zugdidi 22/06/2023

⁷⁴ Respondent from Khurcha village, at the ABL with Zugdidi 22/06/2023

*‘When you move, you pay money to a Russian. If they let you go in the evening, then before arriving in Gali, there are still several places in the villages where the Russians are stay and stop their cars and trucks. If they see that you don't have their document, they will take away your Georgian document and tell you that if you pay the money, they will return it to you. That's it’.*⁷⁵

who have moved ‘unofficially’, the return is also associated with material challenges. Because they don't have documents, they have to go the same way, paying money to the Russian military again, or getting a one-time pass after paying money to the local district authorities again.

*‘When I am returning, I have an acquaintance in Gali, I will call them, pay the money and they will make a document for me. They will write to me that I have to leave due to illness or something similar, and if they give me this document, I will leave through Enguri. What can you do?! It is difficult, but it's worth it, otherwise I can't see my family members.’*⁷⁶

‘Unofficial crossings’ are rarely talked about openly in the villages of the dividing line near the Tskhinvali region. Locals point out that it is dangerous to go this way and that's why no one uses it. There is no reason to run away either, because the kinship ties between families separated by conflict are no longer as close as before.

contrast to the Gali region, along the dividing line near the Tskhinvali region, numerous Russian military bases are situated along the entire length of the barbed wire, relatively close to each other. Contact persons have reported frequent patrolling of the dividing line by Russian soldiers, with regular rotation of personnel.

*‘Even if you try to escape, you cannot trust the Russian soldiers, you cannot make an arrangement with them. One soldier may be on patrol today, but another one tomorrow. In addition, Ossetians and Russians themselves trust each other less’.*⁷⁷

Numerous villages in the Tskhinvali region are connected to paved roads leading to the rest of Georgia. Over the past years, the *de facto* authorities have undertaken extensive efforts to establish checkpoints along such routes. This initiative involved erecting sturdy iron constructions around the area, along with the installation of large green gates. Additionally, surveillance towers have been strategically placed near the gates, complemented by surveillance cameras. Typically, these gates remain sealed, prohibiting entry into or exit from the Tskhinvali

⁷⁵ Contact person from Gali district 5/08/2023

⁷⁶ IDP person from Gali district 21/06/2023

⁷⁷ Respondent from Mereti village, ABL with Gori municipality 11/07/2023

region (and vice versa, from the Tskhinvali region to the rest of Georgia). However, locals have reported certain exceptions that are rarely discussed. For instance, before Bibilov tightened 'border control', entry through the green gate into Khelchua was possible only for citizens holding an 'Ossetian passport,' provided that the village of Gugutiantkari was listed as their place of residence in the passport. Similarly, according to a contact person, only one person from a village in the Kaspi municipality was allowed entry on a daily basis for years under similar circumstances.

The entrance/exit in the village of Zardiyantkari is also worth mentioning. The village was divided into two spheres of influence in July 2012. This issue was discussed at special meetings of the IPRM format,⁷⁸ where the function of the gate in the village was also discussed. Since the village is mainly inhabited by mixed Georgian-Ossetian families, the parties agreed that, based on the application submitted in advance to the administration of Tskhinvali, those residents of Zardiantkari, who had 'Ossetian' or Russian citizenship along with Georgian one, would be allowed through the gate to the village. Five Ossetian families in Zardiantkari still use this opportunity.

*'There are five families with us who have both Georgian and Ossetian passports, but they also have an additional document, I'm not sure exactly what it is, and with that document they cross and get off the Zardiantkari crossing. But not at all times. There are certain days and hours. They themselves know. Their children live there in Tskhinvali and Orjonikidze (now Vladikavkaz), and their parents live here, but they visit each other from here.'*⁷⁹

In the conversation with the respondents, it was revealed that there is a precedent when, apart from the mentioned five families, the 'green gate' of Zardiantkari was opened for other persons as well.

*'My son lives in Tskhinvali with his grandchildren. There he is married to an Ossetian. It's been almost five years since I last saw him. Once he was only able to get out, he was called and they let him in from here (from the door), he got out because of his health.'*⁸⁰

It is also interesting that, as revealed in the interview with the representative of the office of the Minister of State for Reconciliation, the *de facto* administration of the Tskhinvali region wanted to open an additional checkpoint in the village of Zardiantkari in 2015, albeit unilaterally, for the purpose of maintaining family ties for people of Ossetian nationality. The Georgian side did not agree to unilaterally operate the checkpoint, therefore this crossing was not 'officially' developed.⁸¹

⁷⁸ Extraordinary IPRM meeting takes place in Zardiantkari, EUMM, 01.07.2012. Available at https://eumm.eu/en/press_and_public_information/press_releases/3235/

⁷⁹ Respondents from Zardiantkari, 11/07/2023

⁸⁰ Respondent from Zardiantkari, 11/07/2023

⁸¹ Conversation with a representative of the Office of the State Minister for Reconciliation and Civil Equality, June 2023.

2.2 Documents and Procedures Required for Movement Along the Dividing Line

Limitation of freedom of movement is not only manifested in the cancellation or temporary closure of checkpoints. the so-called The documentation required by the *de facto* authorities for border crossing is one of the important barriers that restricts the movement of the population affected by conflicts.

As of 2023, it is possible to move from the region of Abkhazia to the Georgian-controlled territory (and vice versa) with the following documents: Abkhazian 'document of proof of citizenship', - the so-called 'passport'; residence permit, which is issued for a period of up to 4 years; temporary travel visa; and for persons under 14 years of age - birth certificate.⁸²

As for the South Ossetia region, the so-called 'pass' issued by the de-facto security service is required. In order to get a pass, a person must prove the need to travel, and this document is issued in exchange for paying a certain amount. Until March 2019, it was possible to travel to the so-called South Ossetian 'passport', which is owned by almost all people living in this region today, including the people of Akhagori. However, after March 2019, a 'passport' alone is no longer sufficient for movement and a special pass is required.⁸³

In the next sub-chapter, it will be reviewed how the documentation requirements for movement changed from year to year and what dynamics existed in this direction in each region.

i. Documents and Procedures Required for Movement to/from Abkhazia

The rules of entering and exiting the territory of Abkhazia are regulated by the so-called law On entry into the Republic of Abkhazia and exit from the Republic of Abkhazia adopted by the *de facto* parliament on January 26, 2016.⁸⁴ According to this document, everyone is free to travel outside the borders of the 'Republic of Abkhazia'. The right to freely return to the 'Republic of Abkhazia', however, is guaranteed only to the 'citizen of the Republic of Abkhazia'.

As for the citizen of a foreign country or a stateless person, the 'law' regulates the manner of their entry into the territory of Abkhazia and determines the conditions under which they are admitted, or denied admission, as well as their expulsion. According to Article 35 of the 'Law', a foreign citizen/stateless person who violates the rules for entering the territory of Abkhazia, or does not have a document confirming the right to live in Abkhazia, is considered to be illegally present in the territory of Abkhazia and is liable under this 'legislation'. In addition, Article 37 of the 'Law' defines the precise list in which cases a citizen of a foreign country or a stateless person is prohibited from entering Abkhazia:

- 1) if they violated the rules of entering the checkpoint, customs rules, and sanitary norms;
- 2) knowingly used false documents during 'crossing the border';
- 3) is convicted on the territory of Abkhazia or outside its 'borders';

⁸² The impact of the closure of so-called checkpoints on the legal situation of the population living in the occupied territories in 2019-2020, special report of the Public Defender, 2021, p. 15.

⁸³ Ibid, p. 17.

⁸⁴ ЗАКОН РЕСПУБЛИКИ АБХАЗИЯ О ПОРЯДКЕ ВЫЕЗДА ИЗ РЕСПУБЛИКИ АБХАЗИЯ И ВЪЕЗДА В РЕСПУБЛИКУ АБХАЗИЯ, 2016, 26 January, available at: <https://sgb.apsny.land/images/PDF/111.pdf>

- 4) has been assigned administrative responsibility in accordance with Abkhazian 'legislation' 2 times or more within three years.
- 5) did not pay the administrative fine during the previous stay in the 'Republic of Abkhazia'.

Furthermore, according to Article 38 of the same 'law', a citizen of a foreign country or a stateless person is prohibited from entering the Republic of Abkhazia if they:

- '1) oppose the independence and state sovereignty of Abkhazia, or fought against the existing state system and power, or threatened the security of the republic with his actions;
- 2) participated in hostilities against the Republic of Abkhazia in the Patriotic War of the Abkhazian People in 1992-1993, or provided assistance to the occupation regime in 1992-1993 during the Patriotic War of the people of Abkhazia.'

The de-facto authorities of Abkhazia require various documents for traveling freely from the territory of Abkhazia to the rest of Georgia and vice versa, as well as to obtain the right to live in Abkhazia, and these requirements have changed many times over the years. Documents valid for moving today are:⁸⁶

- Form #9 (Note: Finally stopped to exist since December 2023)⁸⁷
- new *de facto* Abkhazian passport
- the so-called certificate of residence.
- For persons under 14 years old - birth certificate

Georgian passport holders are also allowed to enter Abkhazia on the basis of a so-called visa, although the said 'visa' is generally issued for a short period of time for the purpose of temporary stay on the territory of Abkhazia and is one-time only, which excludes regular movement at the checkpoint.

It should be noted that since August 2018, crossing with a Soviet passport has been finally banned, and since January 2019 - the so-called 'old Abkhazian passports' have become useless.⁸⁸

Movement from Abkhazia to the rest of Georgia through checkpoints is mainly problematic for Georgians living in Gali, as well as for people living near the dividing line in the controlled territory. These are the two main groups affected by the continuing conflict, who have critical barriers to movement within the country precisely because of the lack of documentation necessary for movement

During interviews with Gali respondents, it becomes clear that Georgians living in Gali, who often have to move to the territory of Abkhazia, in exceptional cases have Georgian, Russian and Abkhazian passports at the same time. However, the number of such persons is very small. The

⁸⁵ Note: the provision creates barriers especially for the IDP population, - this is analyzed in detail in chapter 2.5.iv

⁸⁶ Public Defender report, 2022, p. 327.

⁸⁷ Вид на жительство в Абхазии будет вновь выдавать МВД, ekokavkaza, 2023. Available at https://www.ekokavkaza.com/a/32331186.html?fbclid=IwAR3eqdyZQxWBH7BK-sSUP_G5zLbzMRRD_NW4TJDCcWsd41phHpbHENnQn0

⁸⁸ Restriction of free movement in Abkhazia and Tskhinvali regions, DRI, 2020. p. 6.

respondents also explain that the Georgian passport is usually hidden by the Gali residents, because the Abkhazian side forbids its possession. However, the vast majority of Gali residents have Georgian passports, because in this case they have the opportunity to move abroad freely, as well as to use state services in Georgia. In addition to a Georgian citizen's passport, the majority of Gali population also have a so-called residence certificate issued by the *de facto* government, which gives them the right to live in Abkhazia and the ability to move. Barriers and problems related to residence permit are analyzed below.

Only a very small part of the population of Gali has a *de facto* Abkhazian passport. 'Abkhaz passport' is a document confirming the citizenship of Abkhazia, the acceptance criteria of which are determined by the so-called 'Law on citizenship of the Republic of Abkhazia' that is in force since 2005. This document provides both the ability to move and is related to the exercise of other civil and political rights, including the right to participate in elections, access to local services, the ability to receive a school certificate and university diploma, the right to buy and sell real estate, and more.

In 2009, the aforementioned law was amended, according to which ethnic Georgians living in Gali could obtain Abkhazian citizenship through a simplified procedure.⁸⁹ After this approach of the de-facto president of Abkhazia, Bagapshi, in 2010-2013, about 30,000 Georgians living in Gali received Abkhazian passports.⁹⁰ Both Bagapshi and the next de-facto president Ankvab were objects of strong criticism and accusations from the opposition on the grounds that the so-called 'passportization' process 'facilitated the realization of Georgia's colonial interests'.⁹¹ Finally, in 2013, Ankvab canceled this rule and confiscated the issued passports from everyone.⁹² Due to this, 23,000 Georgian voters were removed from the election lists in 2014, on August 24. As a result, only 603 Georgian voters were registered in Gali district for the 2017 parliamentary elections.⁹³ In 2016, the local government elections could not be held in Gali due to the lack of voters,⁹⁴ which became the basis for the extension of the powers of the local government agencies by the representatives of the *de facto* government.⁹⁵

It was during the Ankvab period that the so-called 'Form #9' documents was issued, which was used by the Gali population to travel. 'Form #9' granted temporary residency to the holder. Its term was usually set for one month and required constant renewal, which also involved additional costs. The decision to cancel this document was made by the *de facto* administration of Gali back in 2017. Since 2017, residence certificates have been issued to Gali residents, thus partially replacing the so-called 'Form #9', while 'old Abkhazian passports' were completely annulled.⁹⁶

⁸⁹ Living in Limbo- Rights of Ethnic Georgians Returnees to the Gali District of Abkhazia, Human Rights Watch, 2011, 33.

⁹⁰ The data varies from source to source between 20.000 and 30.000. See: new draft law in Sokhumi will let Gali residents 'to return to their Abkhazian roots', civil.ge. Available at <https://civil.ge/ka/archives/402800> ;

⁹¹ Why Gali Georgians need Abkhazian passports, Radio Liberty, 11 February 2022. <https://www.radiotavisupleba.ge/a/რამი-სჭირდებათ-გალელ-ქართველებს-აფხაზური-პასპორტი-31699227.html>

⁹² Ankvab: Gali residents are our citizens, civil.ge, available at: <https://civil.ge/ka/archives/362622> ; Gali Georgian: „We are like slaves“, Voice of America, available at: <https://www.amerikiskhema.com/a/georgia-as-there-live-georgians-in-abkhazia/1755050.html>

⁹³ The question of documents required to travel in Gali district, DRI, 2021, p. 4.

⁹⁴ Contact person from Abkhazia, who has had contact with issuance of documents 11.08.2023

⁹⁵ Double Exclusion Places: Human Rights and Social Challenges in Gali and Akhagori, Social Justice Center, 2022, p.43.

⁹⁶ The question of documents required to travel in Gali district, DRI, 2021, pg 3.

In November 2021, the representatives of the Gali administration once again announced to the residents of Gali that from January 2022 they would no longer be able to move in the direction of Georgia, and that it was time to actively apply for residence permits. After that, Georgians started submitting documents to the *de facto* agencies, fearing that they would not be able to move towards the Georgian-controlled territories.⁹⁷ Since 2022, 'Form #9' has been officially abolished,⁹⁸ – according to the reports of the Public Defender, until 2017, about 12,000 Gali residents used 'Form #9'.

Later, the representatives of the *de facto* government again announced that the validity period of 'Form #9' would be extended until the end of December 2023 only for those who have applied for a residence permit or citizenship of Abkhazia.⁹⁹ At the moment, a large part of Georgians living in Gali have already submitted an application for a residence permit. Although they had a principled objection to taking this document, the people of Gali have no other alternative.¹⁰⁰

*'As of today, the so-called form #9 is issued to those who have applied for Abkhazian citizenship or residence permit and do not have any other document that would help them move to Zugdidi. In such cases, the notice issued basically gives the opportunity to move once.'*¹⁰¹

Some also point out that obtaining a residence permit may be used against them by the *de facto* authorities, who will control the Gali residents' connection with the rest of Georgia and count the days they spend on the other side on the dividing line.¹⁰²

A residence permit is issued for a period of 5 years, with the possibility of extension. Obtaining the mentioned document does not limit the citizenship of Georgia, however, if a person with the right of temporary residence stays outside the territory of Abkhazia for more than 6 months, then his permit will be revoked and his document will be considered invalid.¹⁰³ This reservation has a particularly negative effect on students who have decided to continue their studies in the Georgian-controlled territory or abroad, because they are forced to periodically return to the territory of Gali district within the 6-month period. This, in turn, is associated with additional financial resources and other challenges. The residence permit does not allow the holder to participate in elections or buy/sell real estate. Gali residents who have residence permits pay

⁹⁷ <https://www.livepress.ge/> 08/12/2021 „Gali residents notified that form #9 will be annulled after New Year”

⁹⁸ Annual Public Defender Report, 2022, p. 327. See also: Annual Public Defender report 2021. p. 331.

⁹⁹ Вид на жительство в Абхазии будет вновь выдавать МВД, екокавказа, 2023. Available at: https://www.ekokavkaza.com/a/32331186.html?fbclid=IwAR3eqdyZQxWBH7BK-sSUP_G5zLbzMRRD_NW4TJDCcWsd41phHpbHENnQn0

¹⁰⁰ The question of documents required to travel in Gali district, DRI, 2021, p. 3.

Double Exclusion Places: Human Rights and Social Challenges in Gali and Akhlagori, Social Justice Center, 2022, p. 21.

¹⁰¹ Respondent from Gali district 22/06/2023

¹⁰² Olesya Vartanyan, Easing Travel between Georgia and Breakaway Abkhazia, 2019. Available at <https://www.crisisgroup.org/europe-central-asia/caucasus/abkhazia-georgia/easing-travel-between-georgia-and-breakaway-abkhazia>

¹⁰³ http://chp-apsny.org/upload/iblock/aa2/Vid-na-zhitelstvo-inform.list_1.pdf "Issuance of residence permits to residents of Gali region, as well as some villages of Tkvarcheli and Ochamchiri, who do not have Abkhazian citizenship"

twice as much utility bills and have twice as little pension as those with an 'Abkhaz citizen's passport'.¹⁰⁴

In accordance with the *de facto* legislation, the residence document is issued to persons who are citizens of a foreign country or stateless persons who permanently live on the territory of Abkhazia. According to the *de facto* law, a temporary residence permit is issued in a simplified way to persons living in the Gali region and their family members, if they have been permanently living in the territory of Abkhazia for at least 10 years since October 12, 1999.

According to the respondents, in order to get a residence permit, they need to submit the following documents:

- Official Application;
- Identity document or any document that can be used to identify a person;
- the applicant's birth certificate or a written explanation, explaining the reasons why the person does not have and cannot present a birth certificate;
- Marriage certificate (if any);
- 4 photos;
- Birth certificates, photographs of underage children;
- Form #9, if they have such a document;
- a document confirming the absence of HIV infection;
- certificate from the place of residence;
- certificate of residence;
- Form N1, which includes passport data of family members.

All documents must be submitted in Russian. If any document, such as a birth certificate, is in Georgian, it must be translated into Russian and notarized. Collecting these documents and submitting them to the *de facto* immigration service in the appropriate form, and getting them translated costs at least 5000 rubles (approximately 140 GEL).¹⁰⁵ However, the respondents also noted that the cost of the requested documents is not publicly known and the population is not informed about the prices, which creates additional risks of corruption.

As the respondents mentioned, residence certificates are prepared for persons under 18 years of age in a more timely manner, so that they can receive a school certificate on time. As for adult Gali residents: part of them, who were able to receive documents after 2017, are having their documents expiring, or their documents have already expired. Because of this, most Gali residents are left without documents, or are now in the process of renewing these documents, which in itself is a factor of hindering movement.

'Two years ago, when my grandmother passed away, I collected documents. I couldn't travel back then, but now I have a person in Gali who can make the documents. First they told me 1000 GEL, then 1500, now there is a problem again and the requested amount has increased to 2000 GEL. But I don't know

¹⁰⁴ <https://www.radiotavisupleba.ge/a/რამი-სჭირდებათ-გალელ-ქართველებს-აფხაზური-პასპორტი-/31699227.html>

¹⁰⁵ Restriction of a right to free movement in Abkhazia and Tskhinvali region, DRI, 2020. p. 5.

*what will happen in the end. However, they have promised that it will be taken care of. I have my parents there. My brother and his family are there as well and I can't see them. They have the same problem.*¹⁰⁶

According to the Public Defender of Georgia, as of 2021, 20,224 people in Gali district owned the so-called residence certificates, and 1,065 people - *de facto* passports.¹⁰⁷ Also, according to the information of the Public Defender, as of 2023, there are 3084 so-called Residence certificates issued.¹⁰⁸ According to the 2022 information of the *de facto* authorities, 1130 Gali residents own the so-called passport and 21,500 of them - residence certificates.¹⁰⁹

Respondents of the study noted that preparation of Abkhazian documents, beyond corrupt deals, involves huge sums of money, two-or-three-week-long queues for submitting documents and humiliating treatment. In addition, the *de facto* government imposes various artificial restrictions on obtaining a residence permit.

*'Issuance of documents to Gali residents is artificially delayed, and it is mainly issued only to those who have a so-called patron in the Gali passports office, or who can pay the amount that the middlemen demand as a bribe. Those who do not have money, have to wait, there is no other way. The amount of money to be paid is different.'*¹¹⁰

One of the most common responses that Gali residents get from *de facto* agencies is the lack and shortage of proper forms, as well as ink for stamps.¹¹¹

*'It's been two years since I submitted the documents, but I still haven't received the certificate. Nor do they say when it will be ready. I go and the answer is the same. They tell me we don't have ink, we've run out of it'*¹¹²

According to the Gali respondents, in the district passport offices, where they have to take the residence permits, the representatives of the agency carry out their duties in an irresponsible manner.

¹⁰⁶ Respondent from Khurcha, at the dividing line with Zugdidi, 22/06/2023

¹⁰⁷ Public Defender report, 2021. p. 332.

¹⁰⁸ Public Defender parliamentary report, 2023, p. 22.

¹⁰⁹ <https://sputnik-abkhazia.ru/20221115/nazvano-kolichestvo-zhiteley-galskogo-rayona-obladayuschikh-abkhazskimi-dokumentami-1042628984.html>

¹¹⁰ Respondent from Gali district 22/06/2023

¹¹¹ Испортился принтер — на востоке Абхазии жителям не выдают документы, Еко Кавказа, 23.02.2023 available at: <https://www.ekhokavkaza.com/a/абхазия-паспорта-гальский-район-принтер/32284818.html>

¹¹² Respondent from Gali district 22/06/2023

*'I've had to go there numerous times. Sometimes they say 'we don't have ink', sometimes they say 'the blanks didn't arrive'. When I went there recently, they couldn't find my submitted documents at all, they didn't even give me an answer as to what I should do. I had also paid the money. So it's been more than 1 year of waiting. When you hand over the documents, they don't give you any registration papers, nor do they tell you when they should give you the documents.'*¹¹³

According to the 2018 report of the Public Defender of Georgia, a total of 10,332 applications for residence permits were made in 2017-2018, and only 4,528 certificates were issued; And in 2019, more than 13,400 residents of Gali applied for the so-called 'residence certificate', and only about 6000 applications were approved.¹¹⁴

The research revealed that the procedure for issuing residence permit documentation is disorderly and is proceeding with systemic flaws. The relevant *de facto* agencies do not issue registration sheets for receiving documents, the applicant is not informed in writing about the deadlines for document preparation. Negative responses to the issuance of a document are of an oral nature and is unsubstantiated, and it deprives the applicant of the right to appeal the decision in court.

The *de facto* Public Defender of Abkhazia noted in his 2021 report that the unjustified refusal to issue documents (passport/residence certificate) to the population of Gali was a violation of human rights. As stated in the report, the 'Passport Authority' does not respect the deadline for the preparation and issuance of the document defined by the 'law', delays the issuance and, in addition, does not inform the applicant of the refusal on time, due to which the residents of Gali are not able to protect their rights in a court of law.¹¹⁵ The head of the *de facto* administration of Gali, Konstantine Filia, spoke about the problems related to the issuance of 'passports' to the population of Gali, emphasizing that in order to prevent the outflow of the population of Gali, the issue of granting Abkhazian 'citizenship' needs to be resolved in a timely manner.¹¹⁶

The uncontrolled queues at the 'passport authorities' pose a significant challenge. According to the respondents, only 20-25 people can be served per day due to the outdated infrastructure and limited material-technical resources, leading to long waiting times. Moreover, individuals often need to make repeated visits to the 'passport' department, if they encounter obstacles or face additional inquiries about their documents.

The research highlighted that not only permanent residents of Gali, but also internally displaced persons (IDPs) residing in Zugdidi, villages near the dividing line, or other cities/villages across Georgia, apply to the *de facto* administration of Gali for residence permits. These permits are essential for traveling to Gali. Additionally, the residence permit certificates can serve as the basis

¹¹³ Respondent from Gali district 22/06/2023

¹¹⁴ Public Defender of Georgia, 2020 report on human rights. Available at: <https://www.ombudsman.ge/res/docs/2021040110573948397.pdf>

¹¹⁵ ЕЖЕГОДНЫЙ ДОКЛАД О ДЕЯТЕЛЬНОСТИ УПОЛНОМОЧЕННОГО ПО ПРАВАМ ЧЕЛОВЕКА В РЕСПУБЛИКЕ АБХАЗИЯ, 2021, available at <https://ombudsmanra.org/upload/iblock/fc9/fc9ff1f9c027d2833e5eb8dab7e48757.pdf>

¹¹⁶ Pilia: unresolved issue of 'passportization' causes the migration of Gali population, Radio Atinati, 11 July, 2022. Available at: <https://www.radioatinati.ge/regioni/article/79986--pasportizaciis-mougwarebeli-problema-galis-raionis-mosakhleobis-gadinebas-itsvevs-filia.html>

for obtaining Abkhazia's 'citizen's passport,' which includes pension benefits, making it particularly appealing to elderly IDPs beyond facilitating movement.

Furthermore, in 2019, the *de facto* administration of Abkhazia put forward another initiative on the 'return' of Abkhazian surnames, on the basis of which it would be possible to obtain an Abkhazian 'citizen's passport'. In such a case, the Abkhazian 'passport' will say include an inscription: 'Nationality – Abkhazian'.¹¹⁷ This initiative is an opportunity for the population of Gali, as well as for IDPs, to completely solve the problem of movement for them, as well as to receive individual benefits that are connected with the so-called citizenship of Abkhazia, including a Russian pension and free movement in Russia. Despite the fact that this initiative is not very popular among the Georgian population of Gali, the locals say that they have no other alternative. Besides, even after changing the surnames, the so-called Obtaining 'Abkhazian citizenship' is not a simple process and the decision still takes time.¹¹⁸ It should be noted that the relevant changes in the so-called law 'On Civil Acts' regarding the restoration of Abkhaz nationality and surname were introduced in December 2023.¹¹⁹ It should also be noted that from February 2024, the 'Law on the Legal Status of Foreign Citizens in the Republic of Abkhazia' was amended, according to which the already issued residence permits were extended for another 5 years, and for this Gali residents do not need to submit additional documentation. And for those who do not have a residence permit, a list of documents to be submitted was determined: birth certificate, passport of a citizen of the Soviet Union, 'Form #9', an extract from the business registry, 'work book', references from places of residence and work, certificates of completion of pre-school and full or partial general education and a document confirming professional or higher education.¹²⁰ According to the locals, the situation was very difficult because they could not do anything without a residence permit, and this is a small step for the better. As Konstantine Filia, the *de facto* head of the administration of Gali, assures, the only requirement will be paying customs and blank fees.

There are two additional ways to enter the territory of Abkhazia: invitation by a person living in Abkhazia, or applying for an Abkhazian visa to the the *de facto* Ministry of Foreign Affairs of Abkhazia. the so-called Entry by invitation is a relatively simple procedure, and people whose family members or relatives permanently live in the territory of Abkhazia apply this way. It is such a person who sends information to 'law enforcement agency' about who wants to enter and for what period. The aforementioned 'law enforcement agency' verifies the information about the applicant and makes a decision on the admission of the person. Once an invitation document is issued, one copy is sent to the checkpoint, the second copy to the inviting person, and the third copy to the invited person.

¹¹⁷ [https://www.democracyresearch.org/files/61DRI%20report%20GEO%202020%20\(1\).pdf](https://www.democracyresearch.org/files/61DRI%20report%20GEO%202020%20(1).pdf) pg 7. See also: Why are Gali Georgians offered to change their surnames into Abkhazian? Radio Tavisupleba, July, 2019/ <https://www.radiotavisupleba.ge/a/რატომ-სთავაზობენ-გაღელ-ქართველებს-გვარის-აფხაზურად-გადაკეთებას-/30077465.html>; გაღელი აფხაზები აფხაზობას იბრუნებენ, რადიო თავისუფლება, 20 ივლისი, 2019. Available <https://www.radiotavisupleba.ge/a/გაღელი-აფხაზები-აფხაზობას-იბრუნებენ/29378086.html>;

¹¹⁸ Georgians In Gali, Foreigners on their land, OC-Media, 2017, Available at: <https://oc-media.org/kartvelebi-galshi-utskhoelebi-sakutar-mitsaze/>

¹¹⁹ ЗАКОН РЕСПУБЛИКИ АБХАЗИЯ О внесении изменений в Закон Республики Абхазия «Об актах гражданского состояния», available <http://presidentofabkhazia.org/upload/iblock/2aa/ZRA-O-VNESEN-IZMEN-V-ZRA-OB-AKTAKH-GRAZHDANSKOGO-SOSTOYANIYA-.pdf>

¹²⁰ 'There's a little progress' – what does the new procedure of issuing residency permits change for Gali residents, Radio Tavisupleba, 14 February 2024. Available at: <https://www.radiotavisupleba.ge/a/32820623.html>

As for the so-called 'visa regime', it has been established since April 1, 2016 for movement in the territory of the *de facto* Republic of Abkhazia.¹²¹ 'Visa-free regime' is established for the citizens of the countries that recognized the 'independence of Abkhazia' - Russia, 'Prednestrovian Modovan Republic', 'Republic of South Ossetia', Venezuela, Nicaragua, and Tuvalu. Additionally, according to the order of the *de facto* president of Abkhazia, all tourists who come to visit Abkhazia and stay only 24 hours on the territory of Abkhazia (except for citizens of Georgia)¹²² can use the visa-free regime. According to the same 'order', visa-free travel is enjoyed by 'those citizens of foreign countries, including citizens of Georgia' who are employed at the hydroelectric power stations in Gali and Tkvarcheli. For this purpose, they are issued a special pass for a period of 1 year.¹²³

The so-called law 'On entry into the Republic of Abkhazia and exit from the Republic of Abkhazia' regulates the rules for issuing visas to 'citizens of foreign countries or stateless persons' and defines the types of visas. According to Article 31 of this 'Law', the following types of 'visas' are issued: private, business, tourist, educational, work and humanitarian. 'Private visa' is issued for a period of up to three months, or depending on the type of relationship, it can be for 1 year. Business, work and study 'visas' are also issued for a period of 1 year; As for the tourist visa, it is issued for 1 month or up to 6 months. As mentioned above, before the entry of a 'citizen of a foreign country or stateless person', the security services check the person according to various criteria, for example, whether he has a criminal record, whether he has committed a crime on the territory of Abkhazia, whether he participated in the military operations against Abkhazia in the 90s, whether committed any action that is against the 'sovereignty and statehood of Abkhazia', and others.

As the respondents note, IDPs generally prefer the 'invitations' when entering Abkhazia, - and this, in addition to being a simpler process, in their perception, implies less recognition of the 'State of Abkhazia' than going through visa procedures.

As for the movement of Abkhazians to the Georgian-controlled territory, they mainly use the checkpoint on the Enguri bridge and present the 'Abkhazian passport' at the checkpoint.

The reason for their entry into the Georgian-controlled territory is mainly to receive healthcare services, participate in educational programs, or conduct economic and trade activities. They also move because of family ties. Despite the fact that no additional documentation is required to enter the controlled territory, at the checkpoint of the Georgian side, they often face mockery and retorts, including in relation to their unrecognized documents.

'The attitude of representatives of the Georgian law enforcement and security services towards the Abkhazians who came here is often rude, insensitive, their mocking remarks do not correspond to the policy of reconciliation and trust building announced by Georgia, their attitude is as if they are talking to criminals... This obviously affects the further interest and motivation of these

¹²¹ "The Law" of the Republic of Abkhazia "On the procedure of leaving the Republic of Abkhazia and entry into the Republic of Abkhazia" April 1, 2016. <http://mfaapsny.org/en/consular-service/permission/>

¹²² The impact of closure of so-called checkpoints on the rights of population living in the occupied territories, Ombudsmna Special Report, 2021, p. 6

¹²³ See: website of the de facto Ministry of Foreign Affairs of Abkhazia <http://mfaapsny.org/en/consular-service/permission/>

*people to maintain relations with Georgia. When an Abkhazian, - including women, - comes to this side, they will stop them, make them wait, then they may take them to a car and interrogate them. This happens even when a person comes for treatment and has presented the corresponding documentation. After such an incident, this person will think twice before coming here, - consider whether it is worth coming here again or not.*¹²⁴

People who participate in various economic activities within the framework of state programs and start business activities in the Georgian-controlled territory face administrative/bureaucratic barriers while moving. Due to the many barriers to movement, including the ambiguity of moving cargo from conflict regions, the initiation of such activities is often more of a problem rather than an opportunity.¹²⁵

In case of returning from the Georgian-controlled territory, they pass the checkpoint without any problems, however, in some cases, Abkhazians may become the object of control and inspection by local security services, especially if they travel frequently to the Georgian-controlled territory.

*'At the checkpoint, they may not ask who he visited and why he came over here, but according to our information, the local security services know everything, and they often question this person [who was visited] and ask why and why they had people come over, or whether they 'noticed' something suspicious. Especially if this person travels often. And there are thousands of people crossing, so they may not interview all of them, but when they see frequent departures, then they start to target these people.'*¹²⁶

ii. Requirements imposed by the *de facto* administration of the Tskhinvali region

According to the data at the time of research, entering the Tskhinvali region from Georgian-controlled territory is only possible through two checkpoints: Perevi-Kardzmani or Odzisi-Mosabruni (Razdakhan). These checkpoints are usually open between the 20th and 30th of each month.

Besides the 'entry pass' for crossing the checkpoint one needs different documents issued by the organs of *de facto* administration, such as:¹²⁷

- The pass – the so called 'propusk'
- Form N9
- *De facto* passport
- Residence permit

¹²⁴ Interview with human rights advocate Eka Gamakharia, 5 September 2023.

¹²⁵ Ibid.

¹²⁶ Ibid.

¹²⁷ Restriction of right of free movement in Abkhazia and Tskhinvali region/South Ossetia, (2020), DRI, p. 33.

It is noteworthy that the issuance of these documents or requests to show them at checkpoints is unpredictable and strangely practised. As the locals say, it is possible to cross some checkpoints with the so-called South Ossetia passport, and a pass is not needed. However, in some instances, they ask for the pass, the Form N9, or the residence permit (in the case of Akhalgori residents). The ambiguity and unpredictability of issuing and requesting documents needed for crossing is in itself restricting people's freedom of movement. Besides, the practice differs for Georgians living in the Tskhinvali region and for ethnic Ossetians – there are different requirements for Akhalgori residents and for the other residents of the Tskhinvali region.

As a rule, other populations of the Tskhinvali region (mostly the ethnic Ossetians) cross to Georgian-controlled territory through Vladikavkaz, passing the Larsi checkpoint (due to vicinity and the ease of procedures). When crossing, they mostly use Russian passports, and when entering Georgia, they are treated as Russian citizens.

In the case of Akhalgori residents, freedom of movement is problematic for them beyond the dividing line, and this condition has constantly been aggravated since 2019. First, the procedures related to acquiring documents for crossing are difficult, and the functioning of the checkpoint is problematic.

After the 2008 war, when Akhalgori residents returned home, there were no restrictions on their freedom of movement; using the Mosabruni checkpoint, they would freely cross the so-called border. At the checkpoint, they would present a special pass issued by the *de facto* authorities, attesting their residence in the Akhalgori region.¹²⁸

Later Akhalgori residents could cross into Georgian-controlled territory with the 'passport of South Ossetian citizen'. It is noteworthy that a great majority of Akhalgori residents have the so-called Ossetian passports, – unlike Gali population. The *de facto* administration of Tskhinvali allowed them to acquire 'the passport of a South Ossetian citizen', which locals explain with the fact that the Akhalgori population is rather small compared to the Gali population and they can't influence the local political processes (elections).¹²⁹ 2336 ethnic Georgians lived in the Akhalgori region, according to the 2015 census, which is only 4.3% of the entire Tskhinvali region. In 2020, according to the *de facto* passport service, approximately 80% of the region's population owned the so-called passport. In 2021 there were 43 *de facto* passports issued.¹³⁰

In terms of freedom of movement, the situation started to aggravate for Akhalgori residents in 2019. By the end of 2018, the *de facto* government of Tskhinvali spread information about introducing restrictions to freedom of movement across the dividing line for Akhalgori residents with the so-called Ossetian passports. Changes that were enacted from 1st of January of 2019 entail requirements for the so-called Ossetian passport holders to obtain an additional special pass when crossing the checkpoint.

Therefore, since 2019, Akhalgori residents have already needed a pass, the so-called Form N9, to cross into Georgian-controlled territory. Acquisition of the given document is often subject to corrupt deals and subjective and unpredictable decisions. The so-called 'propusk' is issued by the

¹²⁸ Kanashvili, G, Akhalgori Dead End, DRI, pp. 8-9.

¹²⁹ Teona Piranishvili, Double Exclusion Places: Human Rights and Social Challenges in Gali and Akhalgori, Social Justice Center, 2022, p. 61.

¹³⁰ Ombudsman 2021 report, pg 332.

de facto State Security Committee in the city of Tskhinvali. The passport, which is biligual – Ossetian and Russian, is prepared in the city of Vladikavkaz and is issued in the city of Tskhinvali. As our contact person from Akhagori explains, the residence permit has the same function as the pass and Form 9; it is a required document at the checkpoint, next to the ‘South Ossetian passport’. According to him/her, everyone who has the so-called ‘passport’ is required to have the residence permit, if one wants to cross the dividing line. Otherwise, there are no social, civil or political rights and opportunities tied to the possession of the residence permit.¹³¹

The passes, as a rule, are issued for 1 year and their form changes each time; for what reason, Akhagori residents have to renew it annually, which entails annual contact with corruption schemes.¹³² It’s noteworthy that the validity of the pass is aborted differently in each case; it might be either a single entry or multiple entry. Additionally, as the respondents note, the document is often purposefully redesigned, which makes them reapply and pay for it once again. This is why it is believed that the pass system is a source of corruption, requiring them to informally pay more than 500 Lari.

Starting in 2020, the *de facto* administration aggravated the issuance of the documents needed for crossing even further. It introduced the practice of so-called ‘black lists’, which entails listing those for whom the passes are not issued ‘due to safety matters’.¹³³ It is unknown to the population on what grounds this assessment is made, and there is no system to appeal such decisions.

Up until April 2023, a person had to address the State Security Committee of the *de facto* Republic with his/her address, but from April, the ‘propusk’ (pass) issuance procedures changed. This means that the population is allowed to address Akhagori or Java ‘administrations’ now and present their certificate of place of residence.¹³⁴ Later the *de facto* administrations forwarded citizens’ applications to the so-called State Security Committee. ‘Propusk’ (pass) can be obtained only by those persons who live in Java and Akhagori ‘districts’. The ‘propose’ is required for the underage population, too, at the ‘border’, next to the birth certificate. In case if child crosses without a parent, parent’s power of attorney is needed.

For acquiring the temporary pass, the so-called ‘propusk’ the following documents are needed:

- A passport copy;
- Certificate of place of residence;
- Colored pictures;
- Proof of payment.

In September 2023, high-level officials of the *de facto* Security Council visited Akhagori and discussed the issue of issuing passes to Akhagori residents.¹³⁵ Nowadays, only family members and relatives of people living in Akhagori are allowed to pass the checkpoint from Georgian-controlled territory into Akhagori direction. The *de facto* Security Service representatives

¹³¹ Conversation with a contact person in Akhagori, 11 October 2023.

¹³² Teona Piranishvili, Double Exclusion Places: Human Rights and Social Challenges in Gali and Akhagori, Social Justice Center, 2022, p. 63.

¹³³ “Black lists” and restriction of movement in Akhagori, 08.06.2021, DRI, <https://www.democracyresearch.org/geo/620/>

¹³⁴ Спецпропуска жителям Ахалгори и Джавы будут выдавать местные администрации, Апрель 26, 2023, <https://www.ekhokavkaza.com/a/32380386.html>

¹³⁵ The arbitrary mobility policy of Tskhinvali is a source of corruption and discrimination of Akhagori residents 25 September 2023, DRI, available at: <https://www.democracyresearch.org/geo/1295/>

explained this to Akhlagorians in August 2023. However, as the Akhagori contact person notified us, the cases of crossing, as well as many other issues in Akhlagori, are decided differently, and some civil servants are still able to move freely.¹³⁶ Barriers to the issuance of the pass encourage the population to pay bribes, which is an acceptable practice and a significant source of income for the *de facto* Security Service and municipal organs, heavily burdening the population.¹³⁷ Acquisition of a new pass, or extension of the old pass costs 400-450 Lari on average¹³⁸. Besides the process is selective and is not objective; people may be made to wait months even after paying the bribe.

Internally displaced people from Akhlagori who live in Tserovani face the same problem. Some of their relatives and family members still live in Akhlagori, and they also have to apply for *de facto* organs for passes. As the Akhlagori contact person explains, in the past applications could have been filled by third persons, but now this is not allowed any more. Therefore, Akhlagori residents living in Tserovani also have problems to apply. In its material Ekho Kavkaza assessed the pass-issuing corruption portfolio with 1 million dollars: if 7000 Tserovani residents (an approximate population of Tserovani) addresses *de facto* Security Service for the pass, and pays 400 Lari for this, this means only from Tserovani internally displaced persons the *de facto* Security Service receives 2.8 million Laris for issuing temporary passes.¹³⁹ Residents of other regions of South Ossetia who own the South Ossetia 'citizenship passport' are not required passes for crossing, which means the corrupt machinery is purposefully targetting people living in Akhlagori and Tserovani.

Since February 2023, the pass issuing system has relieved a little, which is connected to the 'parliamentary' elections planned this year in the Tskhinvali region. *De facto* Security Service started issuing passes for Tserovani Akhlagori residents too, who have the *de facto* passport of South Ossetia. The same is the case with Akhlagori residents who have South Ossetia passport.¹⁴⁰

2.3. Security at the dividing line and the incidents of illegal kidnapping/detainment

The incidents of unlawful kidnapping and detainment grew with the activation of borderization, and it has been over 10 years that it is already a systematic practice. The official statistics by the State Security Service about the detainments under the charges of the so-called 'unlawful crossing of the border' during the last seven years look as follows:

Occupied territory	2016	2017	2018	2019	2020	2021	2022	2023
Year								

¹³⁶ Conversation with a contact person in Akhlagori, 6 October 2023.

¹³⁷ The arbitrary mobility policy of Tskhinvali is a source of corruption and discrimination of Akhlagori residents 25 September 2023, DRI, available at: <https://www.democracyresearch.org/geo/1295/>

¹³⁸ Пропуска на миллион, Эхо Кавказа, Февраль 17, 2023, <https://www.ekhokavkaza.com/a/32275422.html>

¹³⁹ Ibid,

¹⁴⁰ Interview with a contact person in Akhlagori (anonymous), 12 February 2024.

Number of people detained crossing in the Abkhazian direction	193	52 (10 women, 14 children)	28 (1 woman)	27 (2 women, 2 children)	13 (1 woman, 2 children)	11 (2 women)	13 (4 women, 1 child)	26 (5 women, 6 children)
Number of people detained crossing in Tskhinvali region/South Ossethia direction	134	126 (20 women, 2 children)	100 (19 women, 8 children)	86 (9 women, 2 children)	64 (6 women, 1 children)	70 (10 women, 1 children)	42 (4 women, 3 children)	37 (2 women)
Total: Abkhazia direction	363	- 25 women, 25 children						
Total: Tskhinvali region direction	659	- 70 women, 17 children						

The data is extracted from the annual reports of the State Security Service between 2016-2021, as well as from the Human Rights Defender's 2022-2023 annual reports.

In total, between 2016 and 2023 there were 659 people detained at the occupation line in Tskhinvali region direction, and 363 people in Abkhazia direction. In some cases, illegal detainment/kidnapping incidents are accompanied by degrading and inappropriate treatment, damage inflicted on human health and killing.¹⁴¹ Of such grave human rights violation cases was the killing of Giga Otkhзорia at Khurcha checkpoint in 2016, the illegal detainment, torture and killing of Archil Tatunashvili in 2018, the passing of Irakli Kvaratskhelia in uncertain circumstances at the so-called border division of FSB in 2019, the murder of Tamaz Ginturi in 2023.¹⁴²

The statistical data show that compared to the Tskhinvali region, the number of detainees is smaller in the Abkhazia direction and has been gradually decreasing over the years. One of the explanations for this can be the so-called practice of 'surrendering', which is more frequent among the people desiring to cross in Abkhazia direction, and entails 'illegal' (using non-formal

¹⁴¹ The Social Justice Center urges for strengthening of villages on the precipice of conflict, April 2023. Available at: <https://socialjustice.org.ge/ka/products/sotsialuri-samartlianobis-tsentr-konfliktspira-soflebsshi-usaftrtkhoebis-zomebis-gadzlierebas-itkhovs>

¹⁴² Social Justice Center responds to the terrifying murder of Tamaz Ginturi by the occupational forces, 7 November, 2023. <https://socialjustice.org.ge/ka/products/sotsialuri-samartlianobis-tsentr-ekhmianebsa-saokupatsio-dzalebis-mier-tamaz-ginturis-mkvleobis-shemzarav-sakmes>

passage or without respective documentation) crossing and the payment of bribes/fines to the so-called border guard.

The report of State Security Service from 2018 mentions that the margin of error in the statistics recorded by the central government on the numbers of registered detainees under the charges of crossing the so-called border in Tskhinvali region direction is approximately 5%, while the statistics recorded by the central government on the numbers of registered detainees under the charges of crossing the so-called border in Abkhazia direction is approximately 10-15% of its real amount.¹⁴³ For example, Russian Federation Border Service data on this matter also exist, according to which the number of detainees in Abkhazia between 2009 and 2016 was 14,000.¹⁴⁴ Variance in data is often explained by State Security Service statistics not being able to include the data of people crossing the dividing line from the uncontrolled territories to the controlled territories.

It is noteworthy that in the past years (since 2019), there has been a tendency of prolonged detentions in cases of charges of crossing the illegal border, especially in the direction of Tskhinvali region/South Ossetia.¹⁴⁵ Unlike the previous years, when illegally detained persons would be released in exchange for paying administrative fines, in the past few years, there have been incidents of opening 'criminal investigations' and sentencing citizens of Georgia to a few years in prison.¹⁴⁶ For example, Zaza Gakheladze was sentenced to 12 years in prison, who was detained by Russian soldiers in Kaspi municipality by the Skhvilos historical church when he was in the forest for agricultural purposes.¹⁴⁷ Vazha Gaprindashvili was sentenced to 1 year and 9 months in prison and got detained in Kaspi municipality under the charges of illegal crossing of the so-called border.¹⁴⁸ November of 2019 was when Genadi Bestaev was detained too, in whose house in the village of Zardiaantkari the occupation forces installed barbed wires and detained Genadi Bestaev 5 times for getting home. In four instances, he was freed in exchange for fines, while the fifth time, next to 'illegal border crossing', he was also charged with smuggling drugs and sentenced to three years. On the 16th of November 2021, Bestaev was transported by a reanimation medical vehicle to Tbilisi being diagnosed with hemorrhagic stroke, after which he passed away soon.¹⁴⁹

According to the people living at the dividing line, barbed wire is no guarantee of the safety of their movement. Despite the fact that the population is extremely cautious at the dividing lines, there are still incidents of their kidnapping and detainment. The EU Monitoring Mission also tries to prevent kidnapping that patrols the former administrative borders of South Ossetia and Abkhazia for 24 hours a day.

¹⁴³ 2018 Report, State Security Service of Georgia, pg 5.

¹⁴⁴ Restriction of a right to free movement in Abkhazia and Tskhinvali region, DRI, 2020 pg 7.

¹⁴⁵ 2021 Public Defender Report, pg 329.

¹⁴⁶ 2022 Public Defender Report, pg 324.

¹⁴⁷ We call on the government to apply effective measures to secure the release of Zaza Gakheladze, Social Justice Center, 2021 <https://socialjustice.org.ge/ka/products/movutsodebt-khelisuflebas-mimartos-kmedit-zomebs-zaza-gakheladzis-gasatavisufleblad>

¹⁴⁸ The Joint Statement of Human Rights Organizations concerning pressing human rights conditions in South Ossetia, Georgia. Available at: <https://socialjustice.org.ge/ka/products/vazha-gaprindashvilis-sakmeze-adamianis-uflebebz-momushave-organizatsiebi-evropis-sabchos-institutebs-mimartaven>

¹⁴⁹ Who was Genadi Bestaev, arrested by the occupation regime five times, Radio Tavisupleba, 2022. Available at: <https://www.radiotavisupleba.ge/a/ვინ-იყო-გენადი-ბესტაევი-რომელიც-საოკუპაციო-რეჟიმმა-ხუთჯერ-დააპატიმრა/31706612.html>

Visual observation clearly shows that in some locations, there are banners warning of the prohibition of movement. But such signs are rather rare in the villages of dividing lines in Abkhazian direction. Local population is more or less informed after what distance is movement unsafe in their villages, but aliens are less aware of such information.

Conversation with respondents revealed that no one warns them of security measures, or of how to behave in cases of detainment. In the past few years, there have been several instances of Russian occupants crossing to the villages on the territories controlled by Georgia and kidnapping the citizens,¹⁵⁰ among whom were women and children too.

*'I was in my garden, working, when suddenly Russians showed up, they were three. They detained me, bit me, I don't know why and then they took me to Tskhinvali.'*¹⁵¹

*'My son was in his garden with children when Russians crossed over. My son told children to run, but he got detained and bitten.'*¹⁵²

Illegal kidnapping and detainment mostly happen near Shida Kartli dividing line borders. The incidents differ from one another. Official reasons of detainment are rarely made public. Those detained and released also abstain from talking about it openly. It seems that mostly the detainments are executed by Russian militaries when patrolling at the dividing line. Although later they transfer the detainees to Ossetian law enforcers and eventually court hearings and the process of issuing the fine happens in Tskhinvali.

According to the last 2022 assessment of the population needs at the dividing line, 63% of villages at the dividing line have no police department, and in 39% of them, patrol police that would routinely patrol the villages are not present at all.¹⁵³ According to the 2019 study, there was no police department in 97% of the villages at the Abkhazian dividing line, and for the Tskhinvali region, this data accounted for 78%.¹⁵⁴ According to the same study, routine patrolling was not conducted in 40% of dividing line villages in Abkhazia and 32% of villages in the Tskhinvali region.¹⁵⁵ The existence of patrolling stations and routine patrolling is particularly important for the dividing line villages in the direction of Shida Kartli and Imereti, as the occupation line is not delimited at all places here, and kidnappings/detainments happen very often.

Detainments often end with administrative fines, but this is not the case when criminal charges are brought against a detainee. In such instances court hearings last months.

¹⁵⁰ The Social Justice Center urges for strengthening of villages on the precipice of conflict, <https://socialjustice.org.ge/ka/products/sotsialuri-samartlianobis-tsentr-konfliktspira-soflebshi-usaftrkhoebis-zomebis-gadzlierebas-itkhovs>; Another case of abductin a citizen by occupying forces – EUMM reps are in Khurcha village <https://rustavi2.ge/ka/news/187759>

¹⁵¹ Respondent from Koshka village, near the dividing line with Gori municipality, 11/07/2023

¹⁵² Respondent from Patara Khurvaleti (Bobnevi) village, near the dividing line with Gori municipality, 12/07/2023

¹⁵³ Needs assessment of population living in the vicinity of the dividing lines in Georgia
"Concent" association, 2022, pp. 16-17.

¹⁵⁴ Needs research of population living in the vicinity of dividing lines in Georgia, UN Women, 2019, pg 12.

¹⁵⁵ Ibid., p. 13.

As the respondents noted detainment practices are different during the illegal crossing of dividing lines in Abkhazian direction.

‘At ours we have it differently compared to Gori [dividing line villages]. No one crosses over to kidnap people here, neither Russians nor Abkhazians. When you cross on the other side, it’s important to obey and they release you in exchange for money. Mostly they chase those who smuggle goods or try to sneak in and escape’¹⁵⁶

The permanent patrolling by the EU Monitoring Mission also does not help reinforce the sense of safety, nor do the nearby checkpoints of Georgian police. Each incident who takes place in the conflict zone or in the neighbouring state of the Georgian-controlled territory has a negative impact on the safety of the residents of the division-line villages. In such instances the sense of fear and insecurity is heightened.

‘You know how gunfires are heard over here, when Tskhinvali starts military trainings? It feels like there will be a bomb falling in my garden soon, or something will be hit by a bullet. When the Ukraine war started, fear overtook everyone again. We they [Russians and Ossetians] would cross over and or do something unexpected.’¹⁵⁷

Observations made at the dividing line villages and conversations held with its residents showed that life near barbed wire is hard and unpredictable.

‘It’s hard to watch barbed wires every day, and constantly feel someone’s gaze. You are constantly tense.’¹⁵⁸

Insecurity is felt right at the entrance of the division-line villages, both in the Abkhazian and Tskhinvali regions. The closer you get to barbed wires, the harder it is to feel safe.

‘How can we be safe here? Do you know what a terrifying feeling it is when the bark of dogs wakes you up? You go to the yard, and a flashlight is pointed at you. Everything is illuminated like in daylight, and you don’t know what is

¹⁵⁶ Respondent from Khurcha village, near dividing line with Zugdidi 22/06/2023

¹⁵⁷ Respondent from Ergneti village (Gori municipality) 11/07/2023

¹⁵⁸ Respondent from Mejvriskevi village (Gori municipality) 20/07/2023

going on. You don't understand if it is peacetime or you need to run, especially when you are with small children.'¹⁵⁹

The village called Little Khurvaleti is a division-line village in the Gori region, which is encircled with barbed wires from three sides. There are seven families who reside there permanently, but they don't know how long they will be able to stay.

'Here, nearby there is 'border' and there are Russians standing there. Up there, you can see the checkpoint of Russians and Ossetians looking down on us. While we live excluded over here, no transport comes, and no one comes to ask how we are. Even the kids have to walk to the school. The only ones caring for their 'safety' are the stray dogs who follow them and walk children to the school.'¹⁶⁰

When discussing security issues, respondents highlighted being objects of offensive and humiliating treatment by Georgian law enforcers when crossing the dividing lines. They recalled the incidents of physical and intimate search, which have particularly grave forms in the case of women. They also underscored that such treatment takes place both against Gali residents and against the rest crossing from Abkhazia, which is incompatible with state's declared policy about building trust and reconciliation.

'They search both Abkhazians and Georgians living in Gali region too. They have stopped an Abkhazian carrying 1 block of Abkhazian cigarettes or 5 bottles of wine. Anyone who talks to Abkhazians and for whom this matters will attest that ... they make them leave these products. If you have the ambition to reestablish contacts, such an approach doesn't help it. The second time he has a chance to visit, he will think twice, this influences freedom of movement and desire for it.'

Those who started business or economic activity on our side, are also met with barriers to movement. Including those who started this with the funding of the Peace Fund. I know a person who started trading with goats and met so many barriers in movement that ... well, he had no way back, once he had invested money, but won't he tell others that this work is not worth the hustle?!...'¹⁶¹

i. Women's movement and safety at the dividing line

¹⁵⁹ Respondent from Patara Khurvaleti (Bobnevi) village (Gori municipality) 12/07/2023

¹⁶⁰ Respondent from Patara Khurvaleti (Bobnevi) village (Gori municipality) 12/07/2023

¹⁶¹ Interview with human rights advocate Eka Gamakharia, 5 September 2023.

Observation at checkpoints and conversations with respondents showed that mostly women come from conflict regions to Georgian-controlled territories, and their travel purpose is related to family and household chores. Women cross using both the 'official' and 'nonformal transit routes'; they risk when they don't have the necessary documents for this. They risk because they have higher hopes of being released on fines if detained.

A few respondents noted during the interviews that they want to cross into Gali to visit fathers or brothers they haven't seen for long.

'My father has no documents, he can't come. Neither can my brother. It is more unsafe for them to travel without documents. There will be thousands of questions they will be asked. My mother travels with a single entry pass. I miss them so much.'¹⁶²

This is how the elderly travel too, when they want to withdraw Georgian pension, assistance for internally displaced persons and to buy medicine. As the respondents say, those traveling from Akhlagori are also mostly pensionnaire women.

'The mini van that leaves from Tserovani is mostly carrying women who cross to Akhlagori. It is the same in the opposite direction. It is mostly elderly women and men, and predominantly the women, who come here.'¹⁶³

It is also students who cross, as not few of them prefer to study at nearby educational institutions, because their families don't have the material means to finance housing for their children in big cities. The administrative line is crossed by young girls from Abkhazia, too, who study at Shota Meskhia University. Due to the heavy financial conditions of the families, they can't even rent housing in Zugdidi which is why they cross the checkpoint almost every week. In between they might be staying at different relatives' houses.

Women also frequently resort to 'giving-in' practices when crossing into Abkhazian direction, including when they are with children.

'Everyone knows of these unofficial transfer routes, people know when and how to cross this road to avoid checkpoints, and everyone knows of risks related to such crossing. When they cross in our direction, they know there is no one haunting them on our territory. But when they go back sanctions for 'illegal border crossing' are heavier. This is why they are very scared of criminal charges, that is why they give-in to be only charged with administrative fines.'

¹⁶² Respondent from Zugdidi 24.07.2023

¹⁶³ And IDP from Akhlagori 15.12.2023

The process of giving in is much harder for women, as they are crossing through unofficial transfer routes in an unsafe environment at night, where they know they will be met by Russian 'border guard' and surrender.

*'Women tell us about the conditions under which they cross... they move early in the morning or at night. Imagine they are surrendering in forests, where they know they will be met by Russian border guards, and they don't take them immediately. They collect these 'illegal crossers' in the woods, in winter... They wait for the car to get filled with these women and children and to move them to the Gali detention centre, where the interrogations start, the fine is issued, and eventually, people get released home. These people do this with their own choice as there is no other way.'*¹⁶⁴

During an informal dialogue with a law enforcer at the Enguri checkpoint, the cases of women were highlighted the most; the person said, 'We already recognize the faces of those people, and mostly women, who cross from Abkhazia and try to smuggle goods.' Respondents often say that searches and control by the Georgian law enforcers is often humiliating and offensive. Women participating in the focus group discussion held with Zugdidi NGO representatives unanimously confirm that in the past few years attitudes towards people crossing from and to Abkhazia are harsher and graver from the side of Georgian law enforcers at the checkpoints. Abuse and mistreatment are frequent, as is physical search and search of personal belongings.¹⁶⁵

Young interviewed women who cross to Georgian-controlled territories for education purposes say that despite being recognized at checkpoints for frequent crossings, they still undergo strict checks on the Georgian side, which is often unacceptable and humiliating for them.

*'When I return from home, first Abkhazians abuse me at the crossing point, then Russians look down and talk down to me. When I have already crossed, I assume here, I mean at the Georgian-controlled territory, it is already my people, my kin, but the way they treat me here too, makes me want to cry. They search us during each crossing, talk to us in an abusive manner, there are cases when they rudely search our belongings. Later, they may also take us aside and search by physically touching us in a separate room. I think there should be women law enforcers, too. I represent the opposite sex, and I don't like it when a man touches me.'*¹⁶⁶

It must be mentioned that Georgian legislation does not prohibit searching personal belongings by a person of the opposite sex. But physical search (with a physical touch) must be conducted only by a person of the same sex. In case of any violation or abuse of power by the policemen, the general inspection of the Ministry of Internal Affairs must be notified using the hotline. But as

¹⁶⁴ Interview with human rights activists Eka Gamakharia, 5 September 2023.

¹⁶⁵ Meeting with women representatives of non-government organizations, Zugdidi, July, 2023.

¹⁶⁶ Respondent from Gali district 22/06/2023

our respondents tell us, they rarely appeal cases against law enforcers, especially those women who have to regularly cross the dividing line, which points to a lack of trust towards law enforcers and the fear of subsequent complications.

2.4. The issue of international movement from the conflict regions

People living on the territory of Abkhazia, as well as the South Ossetia/Tskhinvali region, mostly own the so-called Abkhazian/Ossetian and Russian passports. The vast majority of people living in these two conflict regions also have Russian passports.¹⁶⁷ According to the 2023 data of Freedom House, more than 70% of the residents of Abkhazia have Russian passports, and the rest have unrecognized Abkhazian passports.¹⁶⁸

For Abkhazian/Ossetian passport-holders, it is possible to travel only in the direction of the Russian Federation, as well as in the countries that recognize the 'independence' of Abkhazia and South Ossetia. Additionally, the Russian passports formally give them the opportunity to travel to other countries as well. However, the reality seems more complicated.

The process of issuing Russian passports began after the collapse of the Soviet Union.¹⁶⁹ After the war, many residents of Abkhazia gave up their Georgian citizenship. Russia started actively issuing Russian passports in 6 regions of Abkhazia, and in a short period of time, up until January 2003, 80% of Abkhazia's [remaining] population had been given Russian passports. During this period, obtaining Russian citizenship was possible through simplified procedures.¹⁷⁰

After Russia recognized the independence of the 'Republic of Abkhazia' and the 'Republic of South Ossetia' in 2008, citizens of these 'countries' were given the opportunity to acquire Russian citizenship¹⁷¹. However, this opportunity was limited to those who lived in Russia and would be able to obtain a passport of a Russian citizen through the standard procedure. This approach made it difficult to get Russian passports. If before 2008, Russia regarded the population of Abkhazia and Tskhinvali region as 'stateless persons', after their 'state recognition' they already 'became citizens of their respective countries' and were subjected to standard procedures for obtaining Russian citizenship.

'In 2015, they again announced the possibility of issuing Russian passports for only 6 months, because the Russians also expected that the possibility of receiving Abkhazian passports would appear, however, since this did not happen, the issuance of Russian passports also stopped. Probably 50% of

¹⁶⁷ Thomas Hammerberg and Mangdalena Grono, Abkhazia Today, 2017, 73.

¹⁶⁸ Freedom House Report on Abkhazia, 2023. <https://freedomhouse.org/country/abkhazia/freedom-world/2023>

¹⁶⁹ Victims of Geopolitics: Young Generations in Abkhazia Struggle with Lack of Travel and Education Opportunities Abroad, UNPO, 2020. <https://unpo.org/article/22118>

¹⁷⁰ Mariana Kotova, double citizenship in Abkhazia - Jamnews, 2022. Available at: <https://jam-news.net/ge/ormagi-mogalageoba-afkhazetshi-ara-fufuneba-aramed-satransporto-sashualeba/>

¹⁷¹ Victims of Geopolitics: Young Generations in Abkhazia Struggle with Lack of Travel and Education Opportunities Abroad, UNPO, 2020. <https://unpo.org/article/22118>

Abkhazians do not have Russian passports, that is why they do not have the opportunity to travel abroad.’¹⁷²

At the same time, as part of Tbilisi's non-recognition policy, Russian passports issued in Abkhazia and South Ossetia/Tskhinvali region after 2008 are not recognized by the European Union and none of the other Western countries. According to the information of the de facto Ministry of Foreign Affairs of Abkhazia, the bilateral visa-free travel regime, other than with Russia, operates with Nicaragua and Tuvalu (as well as with unrecognized Transnistria and South Ossetia). This means that Abkhazians and Ossetians can effectively travel internationally only to Russia and to the other 4 countries that recognize their independence.¹⁷³

However, if a person holds a Russian passport that does not indicate that it was issued in Abkhazia/Tskhinvali region, or it does not indicate a serial number allocated for Abkhazia/Tskhinvali region, the holders of such passports have less problems traveling to other countries.¹⁷⁴ However, such passports are obtained by those who spend appropriate money and time for this purpose. In particular, they actually relocate to the Russian Federation, get a residence permit there, and then become Russian citizens and receive the passports that Russian citizens usually have.¹⁷⁵ Obtaining visas is a separate problem, even for those who have passports of the Russian Federation issued in Russia.

‘We cannot go as tourists; we must have a serious official invitation to get a visa. They don't give us tourist visas in Russia either, because we have ID cards of citizens of Abkhazia, and that's why they don't bother and don't issue us tourist visas.’¹⁷⁶

Following the non-recognition policy, within the framework of the engagement policy, Tbilisi started issuing status-neutral travel and identity documents in 2011. Neutral documents were developed as a humanitarian document that, on the one hand, gives the population living in conflict regions the opportunity to move abroad, and on the other hand, is a way to receive services operating in the Georgian-controlled territory, such as general, professional or higher education, healthcare, educational, research or other project grants.¹⁷⁷

A neutral travel document is an identity document that confirms a person's identity both on the territory of Georgia and abroad. It can be obtained by people living on the territory of Abkhazia and Tskhinvali region and do not have passports or IDs of Georgian citizens. Georgia does not recognize documents issued by bodies operating in conflict regions, - according to Article 8 of the Law on Occupied Territories, any act issued by illegal bodies in the occupied territories is considered invalid and does not produce legal consequences. However, the same article sets exceptions for cases *‘when the mentioned act is considered in accordance with the procedure*

¹⁷² Anonymous online interview with a resident of Ochamchire, 25 July 2023.

¹⁷³ <https://www.crisisgroup.org/europe-central-asia/caucasus/isolation-post-soviet-conflict-regions-narrows-road-peace>

¹⁷⁴ Thomas Hamberger and Magdalena Grono, Abkhazia Today, 2017. 73.

¹⁷⁵ Mariana Kotova, double citizenship in Abkhazia - Jamnews, 2022. Available at <https://jam-news.net/ge/ormagi-mogalageoba-afkhazetshi-ara-fufuneba-aramed-satransporto-sashualeba/>

¹⁷⁶ ¹⁷⁶ Anonymous online interview with a resident of Ochamchire, 25 July 2023.

¹⁷⁷ Neutral document: information bulletin https://smr.gov.ge/uploads/prev/Geo_77454925.pdf

established by the legislation of Georgia for determining Georgian citizenship, issuing a neutral identity card, a neutral travel document, birth, marriage, divorce, death, in the Autonomous Republic of Abkhazia or in the Tskhinvali region (former South Ossetia Autonomous District) for the purposes of establishing the fact of a person's legitimate life and his registration'. Thus, the issuance of neutral documents may be based on documents issued by the de facto authorities of Abkhazia, including birth certificate or identity documents.

The rules and conditions for issuing neutral documents are regulated by several normative acts, namely: the 'Law on the Procedure for Registering Citizens of Georgia and Aliens Residing in Georgia, for Issuing an Identity (Residence) Card and a Passport of a Citizen of Georgia', as well as orders #133 and #98 of the Minister of Justice. According to Article 20¹³ of the law, neutral documents are issued by the Service Development Agency, however, when discussing the issue of registration of persons living legitimately in the conflict region, the agency cooperates with the Ministry of Internal Affairs and the State Security Service to determine the circumstances that hinder the issuance or registration of documents important and relevant to the case from the point of view of state and public security. This issue is regulated by the government decree. It is significant that initially the Ministry of Justice cooperated only with the Ministry of Internal Affairs regarding the issuance of neutral documents, as determined by the joint order of these two ministers, issued in 2011.¹⁷⁸ An amendment to Article 20¹³ of the law, where the State Security Service was defined as another agency, was introduced in July 2015.¹⁷⁹ It also determined that on the issue of registration of persons living legitimately in the occupied territory, from the point of view of state and public security, additional restrictions may be imposed by order of the Minister of Justice of Georgia.

Article 8 of the Order #133 of the Minister of Justice defines the process of reviewing the application, explaining that the territorial service of the State Services Development Agency provides information to the State Security Service (SSG) on the second day after receiving the request for the issuance of a neutral document (in this case, the order no longer refers to cooperation with the Ministry of Internal Affairs). The SSG, on its part, determines whether there is an important obstacle to the case from the point of view of state and public security. The agency shall also contact the legitimate government/administration of the respective region to identify the person. In order to identify a person, the agency sets a 5-day deadline for the de jure administrations, and when considering issuing a neutral certificate or a neutral travel document, the deadline for providing information is not set for the State Security Service. However, the order also specifies that a decision on issuing both types of neutral documents shall be made within 10 days. In an anonymous interview, one of the respondents mentioned that they had to wait two months before receiving a neutral travel document. He also recalled a case when a person was refused the document, and the reason for this was not explained to them.

Article 22 of the Order of the Minister of Justice #133 explains the grounds on which a person may be refused the issuance of a neutral travel document. These include the cases if: the person is wanted by law enforcement agencies, has submitted a false document, if there is a response from the security service, claiming that in order to ensure the protection of state and public interests, a neutral document should not be issued to the person, and if the applicant already has an identity

¹⁷⁸ Joint directive of Georgia's Justice Minister and Interior Minister, №134-№822, 12 October 2011.

¹⁷⁹ Law on changes to the law on the Procedure for Registering Citizens of Georgia and Aliens Residing in Georgia, for Issuing an Identity (Residence) Card and a Passport of a Citizen of Georgia 8 July 2015, N3938

card or passport of a citizen of Georgia.¹⁸⁰ As in other cases (for example, when issuing a Georgian citizen's passport to a person living in the occupied territories), the security service may not substantiate its decision and not inform the person of the circumstances that became the basis for the refusal. The security service, as in other cases (for example, when issuing a Georgian citizen's passport to a person living in the occupied territories), is not obligated to explain its decision and may not inform the person about the circumstances that became the basis for the refusal.

It should also be noted that the procedure for issuing a neutral certificate and a neutral travel document are separate from each other and the decision is made separately in each case. Although a neutral travel document can be issued on the basis of a neutral certificate,¹⁸¹ the possession of the certificate does not imply the issuance of a travel document automatically, and the applicant may be awarded with one document and refused for another.¹⁸²

In order for a person living in the territory of Abkhazia or Tskhinvali region to receive a neutral document (if he does not have an ID card or a passport of a Georgian citizen), he must submit one of the documents from this list, which will allow the relevant agencies to identify him. 1) passport with former SSR symbol; 2) birth or identity document issued by de facto authorities; 3) certificate issued by the government of the Autonomous Republic of Abkhazia or the administration of the former South Ossetia Autonomous District; 4) any other identity document.

As the respondents said in an anonymous conversation with us, there is no barrier for them in terms of submitting documents, because the people living in the conflict region do indeed have some of these documents. However, the respondents mention more political barriers beyond the procedural barriers, which may affect the interest in obtaining neutral documents. Among such political barriers is the attitude of the local de facto governments towards the neutral documents, - with local de facto governments having a history of having condemned it as another attempt by Georgia to assimilate¹⁸³ the people living in these regions from the beginning. This kind of pressure and control still exists in the de facto political and public sphere. Additionally, the fact that the neutral travel document is recognized as a valid travel document by only 12 countries (none of which is a Western European country) is another circumstance why people living in conflict regions do not have the motivation to take the risk of obtaining this document and causing problems with local de facto government.¹⁸⁴

Yet another political circumstance, due to which the interest in receiving neutral documents is quite low, stems from the 'GEO' code in this document, due to which the neutral document is perceived as a document of Georgia. At the same time, as experts explain, this code is a necessary prerequisite for the document to meet the standards of the International Civil Aviation Organization (ICAO).

¹⁸⁰ #133 Directive of the Minister of Justice of Georgia, article 22.

¹⁸¹ See Information booklet on neutral documents: https://smr.gov.ge/uploads/prev/Geo_77454925.pdf

¹⁸² The circumstances of the proceedings by the Center for Social Justice on the issue of extending social protection guarantees for persons with a neutral identity card.

¹⁸³ Abkhazian leader opposed to neutral passports, 2012. <https://dfwatch.net/abkhazian-leader-opposed-to-neutral-passports-25286-4210> ; Georgia's neutral passports deceive South Ossetians and Abkhazians, <https://tass.com/archive/669424> ; A User's Guide to Georgia's 'Neutral' Passports, June 2012. <https://www.rferl.org/a/users-guide-to-georgias-neutral-passports/24606006.html>

¹⁸⁴ A step towards a better future - education: The international community has supported a neutral travel document as an alternative means of ensuring freedom of movement and an opportunity to solve the problem on a neutral basis. At this stage, 12 (including 9 EU member states) recognize the document - the Czech Republic, Lithuania, Latvia, Estonia, Slovakia, Poland, Bulgaria, Romania, Hungary, as well as Japan, Israel and the USA. p. 19).

*'Recognition of a travel document is a legal act, following ICAO regulations. For an Abkhazian to travel and use his [Abkhazian] document, this document must be recognized by ICAO standard, and must be registered with a specific state code. There's no avoiding it. You come to a simple question - who is the one that registers? Georgia can register an Abkhazian passport as a travel document, but as soon as you do that, it is unacceptable for Abkhazians, it turns out that they are flying with your [Georgian] document. The second option is that you allow it [Abkhazia] to register, then it turns out that it is a subject of international law that has the right to do so. That's why we enter a dead end. If Georgia registers the passport, our code will be assigned - GEO. Because of this code, even a neutral document is not acceptable to them.'*¹⁸⁵

Also, in case of losing a neutral travel document while abroad, a person will be forced to apply to the consular service of Georgia to get a certificate to return, which also creates some political inconvenience for them.

Furthermore, neutral documents are not associated with all social benefits (assistance/allowance), which could have prompted the interest in the population living in the conflict regions to receive them.¹⁸⁶

The lack of interest is shown by the statistics provided by the State Services Development Agency: from 2016 to the end of 2021, a total of 246 neutral identity cards were issued, in most cases to persons living in Sukhumi and Ochamchire. Statistics for travel documents are even smaller: if 73 neutral identity cards were issued in 2022-2023, in the case of travel documents, this data was 25. It is also worth noting that this number is higher compared to the number of travel documents issued in previous years, which is probably related to Russia-Ukraine war and sanctions related to Russian passports.¹⁸⁷ It should also be noted that although the neutral travel document is recognized by 12 states as a travel document, it is still not a guarantee of trouble-free international travel for the document holder. A neutral travel document is not included in the visa-free travel regime, and therefore a person has to apply for a visa to the embassy/consulate of the country that recognizes the neutral document as a valid travel document.¹⁸⁸

Another way to travel internationally is to get an international passport confirming Georgian citizenship, which would open the way for people living in Abkhazia and the Tskhinvali region to travel internationally. Although there is not a critically high demand for obtaining this document (it is not politically and socially justified/accepted to obtain official documents of Georgia in the conflict regions, as it became evident even after signing the visa-free regime with the European Union in 2017), the central government is not eager to ease the process determining of citizenship in the case of an application.

¹⁸⁵ Interview with an international relations expert, December 19, 2023.

¹⁸⁶ Social Justice Center, Landmark decision on the extension of social security guarantees for persons with a neutral identity card, 2022, available at: <https://socialjustice.org.ge/ka/products/pretsedentuli-gadatsqvetileba-piradobis-neitraluri-motsmobis-mkone-pirebis-sotsialuri-datsvis-garantiebis-gafartoebis-sakitkhze>

¹⁸⁷ Letter of the Service Development Agency of July 27, 2023, N 01/179614.

¹⁸⁸ Interview with an international relations expert, December 19, 2023.

Establishing of Georgian citizenship is regulated by the Organic Law of Georgia "On Georgian Citizenship" and the Resolution #2, dated 4 September 2018, by the Commission on Citizenship Issues "On Approving the Regulation on Consideration and Resolution of Georgian Citizenship Issues". According to the information provided by the Services Development Agency, over the last 4 years, 240 people from these regions have officially applied for Georgian citizenship. Citizenship was granted to only 57% of them (138 people). 46 applications were denied, 55 remained unconsidered, and the proceedings on 1 were suspended.¹⁸⁹ (It is significant that the report presented by the Minister of State for Reconciliation and Civil Equality to Parliament in 2023 states that 124 passports were issued in 2022 and this number increased to 142 in 2023. There is a clear gap between these two statistics provided by the Services Development Agency, although the applications are refused The percentage is still high).¹⁹⁰

As the respondents pointed out, the decision on the mentioned applications is not made without the recommendation of the Security Council, which often becomes the basis for refusal with unsubstantiated motivation (referring to national security).¹⁹¹ Such a low rate of satisfaction of applications for citizenship has a negative impact on the general interest and motivation of the population of Abkhazia and Tskhinvali region to receive Georgian citizenship, considering that the interest and political will is not high, which is also confirmed by statistics.

'Holding a Georgian passport is perceived as a connection with an enemy state, an investigation can be started against this person who holds Georgian citizenship,' - tells us a respondent from Ochamchire.

In February 2017 European Union Parliament adopted the final resolution on establishing visa-free travel with Georgia.¹⁹² This decision created the expectation that the number of Abkhazia and Tskhinvali region residents desiring to acquire Georgian biometric passports would grow. High-profile political figures, including the President and Prime Minister of Georgia, had also called for this.¹⁹³ 'The Ministry of Foreign Affairs' of Abkhazia believed these ideas were doomed to failure. Unfortunately, we lack the opportunity to assess what influence visa liberalisation had on the desire in conflict regions to acquire Georgian citizenship, as the Public Service Development Agency has recorded statistical data on applications from Abkhazia and the Tskhinvali region only since February 1, 2019.¹⁹⁴ Although the statistics collected since 2019 up until this day don't give hope for positive assessments.

In the fall of 2022, people residing in conflict regions had to face different realities, and their freedom of movement was further complicated internationally (according to the Government of Georgia, since the start of the Ukraine war, the demand for Georgian passports drastically increased). Since the start of the Russian full-scale invasion of Ukraine, according to the decision of the European Union, its member states don't recognize travel documents issued in the occupied territories of Georgia and Ukraine. This means that such documents are not valid any more to

¹⁸⁹ Letter of the Service Development Agency of July 27, 2023, N 01/179614.

¹⁹⁰ <https://web-api.parliament.ge/storage/files/shares/zedamxedveloba/ministris-saati/2023/akhvlediani.pdf>

¹⁹¹ Interview with human rights defender Eka Gamakharia, September 5, 2023.

¹⁹² European Union Gives Final Approval for Georgian Visa-Free Travel https://www.eeas.europa.eu/node/21427_en

¹⁹³ Abkhazia denounces Tbilisi's offer to enjoy visa free travel to Europe, OC Media, 2017. <https://oc-media.org/abkhazia-denounces-tbilisi-offer-to-enjoy-visa-free-travel-to-europe/>

¹⁹⁴ Public Service Development Agency, 27 July 2023 correspondence N 01/179614.

acquire visas in the Schengen zone or to cross the border.¹⁹⁵ At the same time, this decision bestows discretionary powers to member states to allow exceptions and issue visas based on such documents if it serves to humanitarian purposes.

This decision of the EU was a reaction to the annexation of Crimea and Sevastopol by Russia in 2014, as well as to the full-fledged war that Russia started on Ukrainian territory in 2022. In the research report preparation phase, it was decided that Switzerland is also refusing to recognize passports issued on the occupied territories.¹⁹⁶ According to the EU's statement, passports issued by Russia in such regions are not recognized by its member states anyway. However, with this new decision, the EU is trying to establish a common practice aimed at correcting the functioning of its foreign borders and ensuring common visa policies as well as the safety of member states.¹⁹⁷ The EU resolution underscores that the aim of this decision is to promote common visa policies and approaches across the EU territory. The resolution also allows the EU member states to admit such Russian passports which are issued on occupied territories to people who were citizens of Russia even before the issuance of these documents.

*'In reality, the adoption of these sanctions by the EU entailed nothing new. It just codified the existing practice, that was already in place. This was the very practice even before the adoption of this resolution.'*¹⁹⁸

According to the respondents, as the majority of the population living in Abkhazia and the Tskhinvali region have locally issued Russian passports, the EU resolution solidifies their isolation and exclusion. In reaction to this, locals in the Tskhinvali region started changing their passports. More specifically, they travel to Vladikavkaz, where they exchange Russian passports. The new documents have Vladikavkaz on them, instead of Tskhinvali, as the place of passport issuance, which is recognized as a travel document issued on the territory of Russia, and hence, it allows for more travel opportunities.

'There are cases when Tskhinvali residents travel to Vladikavkaz to exchange their passports received in previous years. Additionally, they prepare a so-called 'propiska' locally, as a result of which the passports mention Vladikavkaz as the place of residence. The place of issuing the document is Vladikavkaz, and the entity issuing it in Vladikavkaz belongs to the official state structure of

¹⁹⁵ EU to ban use of Russian passports issued in Abkhazia, South Ossetia: <https://eurasianet.org/eu-to-ban-use-of-russian-passports-issued-in-abkhazia-south-ossetia>

¹⁹⁶ Switzerland not to recognize Russian passports issued in occupied regions of Georgia, Ukraine: <https://1tv.ge/lang/en/news/switzerland-not-to-recognize-russian-passports-issued-in-occupied-regions-of-georgia-ukraine/>

¹⁹⁷ Council agrees its negotiating mandate on the non-acceptance of Russian travel documents issued in Ukraine and Georgia, EC, https://www.consilium.europa.eu/en/press/press-releases/2022/10/12/council-agrees-its-negotiating-mandate-on-the-non-acceptance-of-russian-travel-documents-issued-in-ukraine-and-georgia/?utm_source=dsms-auto&utm_medium=email&utm_campaign=Council+agrees+its+negotiating+mandate+on+the+non-acceptance+of+Russian+travel+documents+issued+in+Ukraine+and+Georgia

¹⁹⁸ An interview with an expert on International Relations, 19 December 2023.

*Russia. Travel with such a passport is easier abroad. We enter Georgia with the same passport.*¹⁹⁹

But this road is more difficult and bureaucratically loaded for people living on the territory of Abkhazia. Besides the non-recognition of Russian passports issued in Abkhazia and South Ossetia, movement across the EU is more complicated due to sanctions and restrictions on issuing visas to generally all Russian citizens.

In the last period, travel to Russia also became complicated for Abkhazians, given the protests and resistance to the Foreign Agents' Law. For the past few months, social and online media have spread the information that persons travelling to Russia who are critical and in opposition are stopped at the Russian checkpoints, subject to interrogations and hours of waiting.²⁰⁰ According to the information shared by Abkhazs through telegram channels, at the Psou checkpoint Russian border guard has a list of Abkhazian public figures and activists, who are made to wait and are interrogated, which is called a 'friendly conversation'. Abkhazians are interrogated about anti-Russian sentiments, and as to why they don't like the *de facto* Minister of Foreign Affairs, Inal Ardzinba. *De facto* organs of Abkhazia don't comment on this, but there is a doubt that they have conspired with Russians in organizing this to crush critical opinion.²⁰¹ As the *de facto* Minister of Foreign Affairs, Ardzinba, said he has notified Russia of the incidents at the Psou checkpoint, but he abstained from giving negative interpretations to these incidents.²⁰² This statement confirms doubts about the joint work of *de facto* and Russian rule to create problems with travel in Abkhazia for persons taking a critical stance or being in opposition—such as activists, journalists, and civil society organizations.

In contrast, new information is circulating that at the Psou checkpoint, they started to allow Abkhazia residents to enter Russia with Georgian passports, which was only possible if one possessed an Abkhazian/Russian passport before.²⁰³ Gali residents who don't have Russian or Abkhazian passports could not have travelled to Russia with Georgian passports through the Psou checkpoint. These changes are confirmed at the Psou checkpoint too.²⁰⁴

2.4. Law on Occupied Territories

The Law of Georgia on Occupied Territories serves as the primary legal framework governing Georgia's approach to conflict regions and regulating movement within these areas. Established in

¹⁹⁹ Respondent from Tskhinvali 1/08/2023

²⁰⁰ Russian border guards are tightening control on the Abkhaz section of the Russian-Georgian border, civil.ge. 05.05.2024. <https://civil.ge/ru/archives/580702>; Абхазские оппозиционеры столкнулись с проблемами при пересечении границы с Россией Источник., 2024. <https://www.kavkaz-uzel.eu/articles/396778>
© Кавказский Узел <https://www.kavkaz-uzel.eu/articles/396778>

²⁰¹ Abkhazian Human Rights Defender is inquiring why Abkhazians are interrogated at the Russian checkpoint, Netgazeti, 2024. Accessible at: <https://netgazeti.ge/news/707296/>; 'Abkhazians at Russian border are asked why they don't like Inal Ardzinba', Netgazeti, 2024. Accessible at: <https://netgazeti.ge/news/706312/> See also: <https://t.me/nujnayagazeta/9368>

²⁰² Sokhumi addresses Moscow on interrogation of Abkhaz activists at Psou, February, 2024, Netgazeti. Accessible at: <https://netgazeti.ge/news/711211/>

²⁰³ We are crossing from Abkhazia to Russia with Georgian passports – Abkhazia residents, 20February 2024. Accessible at: <https://bm.ge/news/afkhazetidan-rusetshi-qartuli-pasportit-gadavdivart-afkhazetis-mtskhovreblebi?fbclid=IwAR1IiLOY6286C19kFWKRkAyp56p9JZimtUgjZZqFIU7YWbMrIJKVmsYCE>

²⁰⁴ Interview with a local Abkhaz lawyer, February 25, 2024.

the aftermath of the 2008 War, the law is based on the principles of non-recognition, designating the Russian Federation as the occupying power and the conflict regions as occupied territories. Any engagement with these regions beyond the parameters outlined in this law is deemed illegal and illegitimate, with certain actions falling under criminal jurisdiction. This includes regulations concerning movement.

Article 4 of the Law on Occupied Territories delineates the movement regulations as follows: foreign citizens and stateless persons are permitted entry into Abkhazia solely from Zugdidi municipality, and into the Tskhinvali region exclusively from Gori municipality. Exceptions to this prohibition are also outlined. In line with this law, the Criminal Code of Georgia incorporates a section on violations of the legal regime in occupied territories, imposing criminal liability for breaches of the entry regulations. Article 322¹ of the Criminal Code prescribes punishment for breaching the entry regulations into occupied territories, defined as the unlawful entry of a foreign citizen or stateless person into such territories contrary to the provisions set forth in the Law of Georgia On Occupied Territories. The prescribed penalties include fines or imprisonment ranging from 2 to 4 years, with imprisonment extended to 3 to 5 years in cases of aggravating circumstances. Since 2008, there have been no amendments to the specified penalties in the Criminal Code.²⁰⁵

Consequently, individuals holding foreign citizenship or stateless status are permitted to enter the territory of the Autonomous Republic of Abkhazia solely from the municipality of Zugdidi, and into the Tskhinvali region from the municipality of Gori. This limitation defined by law may also apply to Abkhazians and Ossetians who do not have Georgian citizenship.²⁰⁶ Georgia's response to the Venice Commission's criticism regarding this matter clarified that the law would indeed apply to citizens of foreign countries but not to Abkhazians and Ossetians. This distinction arises from the procedural requirement of depriving them of Georgian citizenship, which has not been implemented.²⁰⁷ However, the Commission contends that due to their unclear legal status, the issue of restrictions on freedom of movement also applies to them. This exacerbates the humanitarian situation of people living in Abkhazia and the Tskhinvali region.²⁰⁸

The law also outlines exceptions, under which a special permit to enter the territory of Georgia from a prohibited direction can be issued through a legal act of the Government of Georgia. Such exceptions may be granted if they serve the state interests of Georgia, contribute to the peaceful resolution of the conflict, aid in de-occupation efforts, foster the restoration of trust among the population affected by the war, or serve humanitarian goals. Additionally, individuals in possession of neutral documents or providing emergency humanitarian aid are not subject to regulation under Criminal Law. It is noteworthy that, according to information from the State Security Service, special permission to travel to the occupied territories for these purposes is granted exclusively to representatives of the Office of the Prosecutor of the International Criminal Court and international organizations.²⁰⁹

²⁰⁵ Kvelashvili Mariam, *Strict legal regime and practice of freedom of movement in the occupied territories*, Social Justice Center, 2023, p.3.

²⁰⁶ Piranishvili Teona, *Assessment of the Law on Occupied Territories from Rights and Humanitarian Perspectives*, Social Justice Center, 2020, p.6

²⁰⁷ *Ibid.* p.7.

²⁰⁸ *OPINION ON THE LAW ON OCCUPIED TERRITORIES OF GEORGIA*, Adopted by the Venice Commission At its 78th Plenary Session, (Venice, 13-14 March 2009), par. 18-20.

²⁰⁹ Letter of the State Security Service of April 10, 2023 SSG 7 23 00084210

The Venice Commission of the Council of Europe, in its initial assessment in 2009, found the law to be punitive and aimed at the international isolation of these regions.²¹⁰ Despite amendments made to the law in accordance with the recommendations of the Venice Commission, the abolition of criminal liability has not yet occurred, which continues to pose a significant barrier for the population living in the conflict regions in terms of free movement. Amendments to the law were planned in 2013 with the aim of liberalizing criminal liability and establishing administrative liability, a move that was positively evaluated by the Venice Commission at the time. However, the Parliament failed to adopt the proposed legislative changes.²¹¹ It is also noteworthy that in the 2013 report on the implementation of the neighborhood policy, the European Commission called on Georgia to ‘reconsider’ the law on occupied territories. However, the European Commission did not specify the particular issues that needed to be addressed.²¹²

In this context, it is interesting to observe that Moldova and Cyprus have adopted more liberal approaches, focusing on engagement and confidence-building policies.

2.5. Legal and social consequences of restriction of freedom of movement

The restriction of freedom of movement has significant implications for the legal and social status of populations impacted by ongoing conflicts. Particularly critical are the effects on access to quality and timely healthcare, education, the right to maintain family ties, and socio-economic rights.

Checkpoints are more than mere transit points for people residing in conflict regions, particularly for the inhabitants of Gali and Akhlagori. They serve as vital links to education, quality medical services, affordable household goods, pensions, and connections with relatives and other family members. Barriers to freedom of movement also have a significant impact on the demographic indicators of the Georgian population in conflict regions. For example, the Akhlagori district is massively depopulated, because due to the conditions of complete isolation, they do not have access to basic needs.

The closure of checkpoints leading to the Tskhinvali region, where approximately 400 people crossed daily, has placed the population of the Tskhinvali region, and especially the ethnic Georgians living in Akhlagori, in a difficult situation. During the Pandemic, the traffic restrictions pushed the population of Akhlagori to the brink of a humanitarian crisis.²¹³ Due to the ‘Chorchana crisis’ in September 2019, which was followed by the closing of the Odzisi-Mosabruni checkpoint, approximately 400 people left Akhlagori 1 day before the checkpoint was closed.²¹⁴

²¹⁰ COMMENTS ON THE LAW ON OCCUPIED TERRITORIES OF GEORGIA, Strasbourg, 4 March 2009 Opinion no. 516/2009, par. 3.

²¹¹ OPINION ON THE 2013 DRAFT AMENDMENTS TO THE LAW ON THE OCCUPIED TERRITORIES OF GEORGIA Adopted by the Venice Commission at its 97th Plenary Session (Venice, 6-7 December 2013), Opinion no. 744 / 2013, par. 9-15; Piranishvili Teona, Assessment of the Law on Occupied Territories from Rights and Humanitarian Perspectives, Social Justice Center, 2020, p.10

²¹² ENP Country Progress Report 2013 – Georgia, https://ec.europa.eu/commission/presscorner/detail/en/MEMO_14_224

²¹³ Public Defender's Office, Special Report of the Impact of Closure of the So-called Checkpoints in 2019-2020 on the Rights Situation of Population of the Occupied Territories, Public Defender's special report, 2021, p. 9.

²¹⁴ Netgazeti, the slow death of Akhlagori people for saving Bibilov's authority, 1.11.2019. Available at: https://netgazeti.ge/news/402575/?fbclid=IwAR3DLb_p1xeYXL7WB8tcCR2-

As for the direction of Abkhazia, the cancellation of two crossing points on the dividing line had a particularly negative impact on approximately 3,400 families from 11 villages living in the so-called lower zone of Gali district, who most often used these crossings.²¹⁵ The severe trend of population outflow from Gali is also evidenced by the *de facto* administration of Gali.²¹⁶ According to Konstantine Pilia, the population outflow started in 2015 due to document-related difficulties. He cites the village of Tagiloni as an example, where 51 out of 380 houses were vacated. According to Radio Liberty's media material, it's evident that young people leave Gali due to limited educational opportunities, challenging social backgrounds, lack of documents, and overall lack of development opportunities.²¹⁷

i. Access to education

Access to quality education poses challenges for all social groups in conflict regions due to limited mobility. Specifically, two main groups with restricted rights are identified: ethnic Georgians, who face limited access to education in their native language in conflict regions, thus serving as a barrier to quality education (population of Gali and Akhgori).²¹⁸ And the second group is Abkhazian/Ossetian (and also other local ethnic groups) population of the conflict regions, who, in the conditions of restrictions on international movement, do not have the opportunity to participate in international educational programs, receive foreign scholarships and go to study in universities in Europe/America or other countries (except Russia).

The Russification process of the education system in Gali and Akhgori regions has been going on for years, but it was finalized in 2022, when all classes of all schools in both regions switched to Russian-language teaching. In this process, Georgian textbooks have been completely replaced by educational resources from the Russian Federation, and the teaching process in Russian is strictly controlled in both regions.²¹⁹ Limitation of receiving education in the native language is a barrier for local youth to access quality education, as the process of receiving and teaching in Russian is problematic for both students and teachers.²²⁰ As a result, numerous young people residing in Gali and Akhgori are compelled to leave their homes and relocate to the Georgian controlled territory to access education in the Georgian language. In some cases, entire families opt to move, while in others, only the student relocates. Nonetheless, this process poses significant financial and psychological challenges for families.

The operation of checkpoints was crucial for students residing near the dividing line, enabling them to attend schools located on the other side, in the Georgian controlled territory, and receive education in the Georgian language. Despite the challenges of daily commuting through checkpoints, it remained the most viable solution for many young people.

²¹⁵ 2022 Annual Report of the Public Defender, p. 320.

²¹⁶ Radio Liberty, the situation in terms of population outflow from Gali is serious - *de facto* administration. (29.02.2024) Available at: <https://www.radiotavisupleba.ge/a/32842174.html>

²¹⁷ Ibid.

²¹⁸ Piranishvili Teona, Access to Quality Education in Gali and Akhgori, Social Justice Center, September 25, 2023. Available at: <https://socialjustice.org.ge/en/products/khelimisatsvdomoba-khariskhian-ganatlebaze-galsa-da-akhgorshi>

²¹⁹ Democracy Research Institute, DRI: Tskhinvali security service searches Akhgori schools, 29.06.2023. Available at: <https://www.democracypresearch.org/eng/1248/>

²²⁰ Piranishvili Teona, Access to Quality Education in Gali and Akhgori, Social Justice Center. 25.09 2023, pp. 4-8

The mass closures of checkpoints in 2016-2017 further complicated access to education for students. For example, Khurcha, a village near one of the dividing lines, previously had an official checkpoint which was operational until shortly after the killing of Georgian citizen Giga Ochtozoria at the checkpoint in 2016.²²¹ This checkpoint was notable by the fact that it was used by children living in the village of Nabakevi and other nearby villages, who used to go to Khurcha for preschool or school education. After the checkpoint was closed, the children had to cross the river separating Nabakevi and Khurchi. They traversed the remnants of a bridge that once served as a vital road link until it was destroyed by Russian forces. Now, the ruins lie partially submerged in the river. Today, Khurcha is separated from the village of Nabakevi by barbed wire, which finally deprived children of the opportunity to study in the Georgian language in the territory controlled by the Georgian central Government.

*First, the children were crossing the checkpoint. There was such joy. They would come from Nabakevi, Barghebi, they wanted to learn Georgian. Then this checkpoint was closed. The children found another passage nearby. At that time, Abkhazians did not prevent people from crossing as much. But as soon as the barbed wires were installed, the traffic was slowly stopped. There was a case when school children crawled through the barbed wire and scratched their hands. They took the same route back. It was painful to watch them.*²²²

In 2016, 11 children from the village of Nabakevi were enrolled in the kindergarten of Khurcha. By 2017, this number decreased to two, and since then none. This decline coincides with the complete closure of the Khurcha-Nabakevi crossing. Currently, there is no kindergarten in the village of Nabakevi.²²³ The situation is the same in the village of Orsantia, where five children from the village of Otobaia in the Gali district attended the kindergarten, and after the crossing was closed - none.²²⁴

In addition, students living near the dividing line often went to the schools in the Georgian controlled territory. For example, dozens of students from Saberio village, the Gali district attended the 9-year-old school in Tskoushi village and the 12-year-old school in Pakhulani village, both located in the Tsalenjikha municipality. A similar situation is in the case of students who moved from Otobaia village of Gali district to Ganmukhuri village of Zugdidi municipality.²²⁵ Since 2016, following the closure of checkpoints and the implementation of a stricter movement regime, these opportunities have become increasingly limited.²²⁶

²²¹ Jamnews, Killing of Giga Otkhozoria, 22.05.2016, available at: <https://jam-news.net/ge/გიგა-ოტხოზორიას-მკვლელობა/>

²²² Respondent from the village of dividing line - Khurcha, Zugdidi Municipality, 22/06/2023.

²²³ Piranishvili Teona, Access to Quality Education in Gali and Akhagori, Social Justice Center, 25.09 2023, p. 9. Available at: <https://socialjustice.org.ge/en/products/khelimisatsvdomoba-khariskhian-ganatlebaze-galsa-da-akhagorshi>

²²⁴ Ibid.

²²⁵ Public Defender's office (October, 2015) The Special Report on The Right To Education in the Gali District: New Developments and Challenges in the Academic Year of 2015-2016; See also: Teona Piranishvili, 25.09 2023, Access to Quality Education in Gali and Akhagori, Social Justice Center, p. 8. Available at: <https://socialjustice.org.ge/en/products/khelimisatsvdomoba-khariskhian-ganatlebaze-galsa-da-akhagorshi>

²²⁶ Public Defender, Annual Report of the Public Defender, 2017, p. 319.

In 2019, movement restrictions prevented the highschool students from entering the controlled territory of Georgia to take the unified national exams for university entry. In June 2019, media reported an incident where an applicant sneaked through an 'unofficial exit' to take the national university entrance exams, and in doing so, injured his hand on the barbed wire. After this incident, the Ministry of Education decided to enroll all applicants who were unable to cross without requiring them to take the examination.²²⁷ The policy of enrolling applicants without an exam continued in 2020 due to travel restrictions imposed by the Covid pandemic.²²⁸ Starting from 2020, based on the amendments made to the Law of Georgia on Higher Education, people living in the occupied territories are enrolled in higher educational institutions of Georgia without any prerequisites, without exams and are financed with a state study grant. This positive step by the state aims to eliminate barriers associated with the restriction of freedom of movement during the Covid pandemic

As mentioned above, young people residing in Abkhazia and the Tskhinvali region encounter barriers to accessing education abroad, including the inability to study in European/American universities or receive scholarships issued by them, due to restrictions on freedom of movement. These opportunities have become notably more challenging following the decision by the European Union in 2022, as discussed earlier.

*'Currently, it is difficult for some of our citizens to go abroad. Especially for those who wanted to study in another country. There are also families whose members live in other countries, and the restrictions have separated them. This is not good. However, there are people who were not greatly affected by this decision.'*²²⁹

In 2018, the Georgian government adopted the peace initiative Step to a Better Future, which aims to increase educational opportunities for all residents of Abkhazia and the Tskhinvali region. In this regard, the initiative states that residents of both regions can participate in scholarships and bachelor's, master's and doctoral programs of the European Union, various EU member states, Switzerland, the USA, Turkey and Asian countries, including, for example, the European Union's ERASMUS+ program, Visegrad Foundation Scholarships, British Chevening, German DAAD, US Fulbright Program and others. The residents of Abkhazia and Tskhinvali region do not have a real opportunity to participate in the mentioned programs (except for the Chivining program) due to several reasons: Firstly, the participation criteria for the program specify a list of eligible countries, excluding unrecognized regions. Consequently, Abkhazian and Ossetian students may encounter difficulty as they are compelled to indicate Georgia as their country of origin, which poses potential challenges for them. Additionally, only higher education institutions accredited by the Georgian state are permitted to participate from Georgia. As a result, since Abkhazian and South Ossetian universities lack accreditation, their diplomas are often not recognized by most international universities. Therefore, the students do not have the opportunity to participate in

²²⁷ Democracy Reform Institute, Restrictions on the right to freedom of movement in Abkhazia and Tskhinvali region / South Ossetia, 2020 p. 16. Available at: [https://www.democracyresearch.org/files/62DRI%20report%20ENG%202020%20\(1\).pdf](https://www.democracyresearch.org/files/62DRI%20report%20ENG%202020%20(1).pdf)

²²⁸ Piranishvili Teona, Access to Quality Education in Gali and Akhlagori, Social Justice Center, 25.09 2023. pp. 17-18. Available at: <https://socialjustice.org.ge/en/products/khelmisatsvdomoba-khariskhian-ganatilebaze-galsa-da-akhalgorshi>

²²⁹ Respondent from Sokhumi 12.08.2023

international programs.²³⁰ If their diplomas are recognized in the controlled area, then this obstacle will not exist. However, the existing bureaucratic barriers in the recognition process hinder the process. Among these barriers is the regulation determined according to the order of the Minister of Education and Science No. 147, which requires a copy of the identity document for the recognition of general education. Additionally, according to order No. 1067 for the recognition of higher education, in the absence of such a document, any document that allows the identification of a person is considered sufficient. According to the Government's peace initiative 'Step Towards a Better Future', similar changes are planned to simplify the general education recognition process, although such changes are not included in Minister's Order No. 147.²³¹ Additionally, for recognition, it is often necessary to pass exams in the controlled territory of Georgia to confirm qualifications. However, the recognition process can pose political challenges for the population of Abkhazia/Tskhinvali region as they must request Georgia to confirm/recognize their documents.

In addition, despite the clear definition by the Government's peace initiative of the possibility for residents of Abkhazia and the Tskhinvali region to participate in international scholarship programs with the support of the Georgian government, including those under the mandate of the International Education Center, one of the requirements for participating in the programs on their website is a document confirming Georgian citizenship or a neutral passport/identity card.²³² If these documents are required, participation in the Center's programs will be unavailable to residents of Abkhazia and Tskhinvali region. According to the peace initiative, having a personal number should suffice for participation in these programs. The researchers requested public information on the mentioned issue from the International Education Center, but did not receive a response.

The only international program where the residents of the Abkhazia/Tskhinvali region can participate is the Chivining program supported by the Kingdom of Great Britain. They can participate in the mentioned program through the 'South Caucasus' quota. Every year, 2-3 students from Abkhazia are financed to study in Britain across various specializations. Although participation is also open to students from South Ossetia, as of yet, no one from this region has achieved that.²³³

'In addition to displacement, the lack of scholarships for Abkhazia is a problem. We have Chivining, which gains even more popularity, as it is adapted to the South Caucasus region. This is acceptable to us, because it is not tied to either Russia or Georgia, they also recognize Abkhazian diplomas. There are also Italian Rondine scholarships, they take 1 person once every two years and you have to have a Russian diploma, they don't recognize an Abkhaz one. Now we're talking about American scholarships and let's see...'

²³⁰ Democracy Research Institute (09.08.2023) Abkhaz youth can get higher education abroad only in Russia. Available at: <https://www.democracypresearch.org/eng/1276/>

²³¹ Piranishvili Teona, Access to Quality Education in Gali and Akhgori, Social Justice center, 25.10.2023, p.13

²³² Website of the International Education Center: <https://iec.gov.ge/question>

²³³ Interview with expert Eliko Bendelian, December 16, 2023.

ii. Access to health care

Access to quality and timely health care is one of the most critical problems, which in the conditions of restrictions on freedom of movement continues to worry the population, especially those who live in conflict regions and do not have access to quality and timely health care at the local level.

A number of existing restrictions on freedom of movement make access to timely and quality healthcare difficult, including for patients with special medical needs who may not have the necessary documentation for crossing. This process can also be delayed due to the fact that an ambulance outside the dividing line is not allowed to pass through the buffer zone (for example, on the Enguri bridge, from the Russian checkpoint to the Georgian checkpoint). Because of this, the patient is transported to the checkpoint in the Georgian controlled territory by taxi, while the patient may require the appropriate medical equipment continuously during the transfer. Also, since the checkpoints close at 8 pm in both directions, they may not let in a patient who needs timely medical attention during the night hours.²³⁴

Due to numerous barriers in terms of access to health care in Akhagori and Tskhinvali region in general, it is vital for the locals to go to the Georgian controlled territory to receive medical services, as evidenced by numerous recent studies and reports.²³⁵

The restriction of freedom of movement and the complete closure of checkpoints for nearly two years led to a critical situation in the Tskhinvali region, particularly in Akhagori. The population in these areas reached the brink of a humanitarian crisis, facing complete isolation. From September 2019 to August 2022, all checkpoints in the direction of Tskhinvali region were closed. During the pandemic, the population was left without access to quality and timely healthcare, due to which a number of fatal cases were publicized through the media,²³⁶ although official accurate statistics in this regard are not developed by the state bodies.²³⁷ During the pandemic, the *de facto* regime of Tskhinvali declined assistance offered by Georgian authorities. Consequently, the closure of checkpoints resulted in a continuous increase in deaths due to lack of timely access to healthcare.²³⁸ Transferring patients from the Tskhinvali region to the Georgia controlled territory involves navigating a complex bureaucratic process, which is incompatible with the urgent need for emergency medical care. In order to transfer the patient, the following steps need to be taken: 1. Gathering the group of doctors of Tskhinvali and receiving their consent; 2. Receiving consent

²³⁴ Democracy Reform Institute, Restrictions on the right to freedom of movement in Abkhazia and Tskhinvali region / South Ossetia, 2020, pp. 17-18. Available at:

[https://www.democracyresearch.org/files/62DRI%20report%20ENG%202020%20\(1\).pdf](https://www.democracyresearch.org/files/62DRI%20report%20ENG%202020%20(1).pdf)

²³⁵ Kanashvili G., New Deadend, Democracy Reform Institute, 2021, p. 11.

<https://www.democracyresearch.org/files/94%E1%83%90%E1%83%AE%E1%83%90%E1%83%9A%E1%83%92%E1%83%9D%E1%83%A0%E1%83%98%E1%83%A1%20%E1%83%A9%E1%83%98%E1%83%AE%E1%83%98%2001.03.2021.pdf>

²³⁶ Shida Kartli Informational Center, Tsikhelashvili responds to the facts of death of patients in Akhagori, 15.04.2020

Available at: <https://www.qartli.ge/ge/akhali-ambebi/article/14447-akhagorshi-pacientebis-gardacvalebis-faqs-cikhelashvili-ekhmaure>; Netgazeti, The patient, who was not transferred to Tbilisi, died on the way to Tskhinvali, 28.10.2020, Available at: <https://netgazeti.ge/news/401582/?fbclid=IwAR3I-cmxARENXx-KkB7-SJMkESrZroZvOKS1dREa87vlpDtLOqnm8kq-2l>

EMC (30.10.2019) EMC Responds to the Humanitarian Crisis in Akhagori.

Available at: <https://socialjustice.org.ge/en/products/emc-akhagorshi-shekmnil-humanitarul-kriziss-ekhmianebe>

²³⁷ Office of the State Minister of Georgia for Reconciliation and Civil Equality (26.10.2023) the Letter N1877 of the Office.

²³⁸ Public Defender, Annual Report of 2019 of Public Defender. p. 405; Public Defender (2021) Annual Report of 2020, 2020, p. 434

from Akhagori local municipality and doctors to transfer the patient to Tskhinvali; 3. After being transferred to Tskhinvali, assessment of the patient's condition by Tskhinvali doctors; 4. After the permission of the doctors, the family has the right to apply to the *de facto* authorities to get a 'pass' to transfer the patient to the Georgian controlled territory; 5. At the last stage, the patient is transferred to the International Organization of the Red Cross.²³⁹

It is noteworthy that the Akhagori hospital is virtually non-functional, lacking doctors and suffering from broken medical infrastructure.²⁴⁰ Moreover, the hospital has faced numerous corruption allegations in recent years.²⁴¹ Similarly, the Tskhinvali hospital also suffers from a deteriorating infrastructure that fails to meet basic medical needs.

Medical infrastructure in the Gali region is in no less grave condition. Especially when you need emergency medical help. Saberio village hospital in Gali district is also facing critical challenges. Even the basic infrastructure required for diagnosis, such as X-ray and ultrasound equipment, is not available here. The breakdown of ambulances, which serve the villages of Gali district, is also problematic.²⁴²

The medical infrastructure and services in both conflict regions are problematic and flawed, often failing to meet even basic standards. Therefore, the establishment of an uninterrupted and flexible healthcare transportation system, including ambulances, is critically important to address these challenges effectively.

People living in Abkhazia and Tskhinvali region benefit from two programs funded by the Ministry of Health of Georgia: the rural doctor and emergency care programs, which are mainly used by people living in the Gali region. In the Georgian controlled territory, both Abkhazians/Ossetians (and other ethnic groups living in the conflict region) and Georgians can use health services. To benefit from the program, Abkhazians must possess either an Abkhazian passport or another document confirming their residency in the territory of Abkhazia. Ethnic Georgians, on the other hand, only need to present any valid document. Moreover, possessing a Georgian passport allows individuals to additionally benefit from the universal healthcare program.

There are difficulties and bureaucratic barriers for ethnic Georgians living beyond the dividing line to benefit from the healthcare referral program that provides free healthcare services to other people living in conflict regions, especially if they do not have any documents issued by the *de facto* government to prove their residence in the conflict region.²⁴³ In general, satisfaction with the health referral program and its success are often highlighted in Abkhazian/Ossetian communities. It is difficult to measure the impact of these programs on the process of trust building and conflict transformation, especially in the background when it is not socially acceptable for Abkhazians and Ossetians to openly talk about the use of these programs in their own societies. However, it is evident that the number of beneficiaries of this program is

²³⁹ Public Defender, Annual Report of Public Defender's Office. 2021, p. 434.

²⁴⁰ Radiotavisupleba, 'Lost' doctors and difficult epidemic condition in Akhagori, 29.10.2021, Available at:

<https://www.radiotavisupleba.ge/a/დაკარგული-ექიმები-და-რთული-ეპიდემიის-აზღვრები/31535915.html>

²⁴¹ Netgazeti, Corruption scheme in Akhagori hospital | what examinations are they carrying out. 16.12.2021, Available at: <https://netgazeti.ge/news/582381/>

²⁴² Piranishvili Teona, Health care policy of Georgia in conflict regions. Social Justice Center. 29.09.2023, Available at:

<https://socialjustice.org.ge/ka/products/sakartvelos-jandatsvis-politika-konfliktis-regionebshi>

²⁴³ Interview with a representative of the Ministry of Health, September 5, 2022.

increasing each year, and Abkhazians and Ossetians interviewed as part of the research highly praise it.

A different reality exists for the population of Gali and Akhagori districts. Respondents from these regions often noted feeling unequal treatment compared to other residents of the conflict regions. While healthcare services for other people living in the territory of Abkhazia and the Tskhinvali region are fully financed through the referral program, residents of these districts receive medical support under the same conditions as citizens of Georgia. In some cases, these conditions are worse than the benefits provided by the referral program.

According to Clause (b) of Article 2 of Resolution No. 331 of 2010 of the Government of Georgia, among the persons benefiting from referral medical assistance are citizens of Georgia living in the territories provided for by Article 2 and Clause 2 of Article 10 of the Law On Occupied Territories and Stateless persons permanently residing in Georgia, regardless of having a certificate of Georgian citizenship or a relevant official document.

Despite this record in the law, the respondents often stress that people living in Gali and Akhagori regions do not have information about the possibility of using the referral program, and those who apply face many bureaucratic hurdles. Therefore, such cases are frequently resolved through personal contacts and the extraordinary efforts of local medical personnel.

This is confirmed by the low statistics of the use of the referral program in the case of Gali and Akhagori regions, compared to the rest of Abkhazia and Tskhinvali region. According to the data provided by the Ministry of Health for the last 6 years, 6,264 people living in the territory of Abkhazia and 328 citizens of Georgia living there have benefited from the referral program. As for the Tskhinvali region, over the last 6 years, 1,639 people and 65 Georgian citizens who live in the territory of the Tskhinvali region have benefited from this program. It is significant that the number of Georgian citizens using the referral program was the highest during the pandemic, later their number decreased significantly.²⁴⁴

The process of Abkhazians and Ossetians living in the *de facto* regimes moving to the controlled territory of Georgia for medical purposes, despite the availability of free healthcare services, is still fraught with problems and bureaucratic barriers. This is particularly problematic in cases of emergency medical assistance, necessitating the involvement of local medical personnel and timely cooperation, utilization of personal contacts and connections of agencies and medical workers in the controlled territory of Georgia. Abkhazians (as well as Ossetians) definitely need a pass issued by the *de facto* authorities when they come to the Georgian controlled territory for a planned medical examination. However, they often encounter refusals without explanation, which are typically resolved through personal contacts. It takes about a week to get the permit. Sometimes less. After entering the Georgian controlled territory, they can contact the desired medical institution and receive appropriate health care services. For them, planned outpatient services are not-free, urgent and planned operations are free. Obtaining permission to transport a patient within the framework of the urgent emergency program is also subject to time-related constraints. This is especially challenging in cases where referral or urgent transfer occurs after 20:00, particularly if the required service or medical procedure cannot be provided by medical

²⁴⁴ Piranishvili Teona, Health care policy of Georgia in conflict regions. Social Justice Center, 29.09.2023, available at: <https://socialjustice.org.ge/ka/products/sakartvelos-jandatsvis-politika-konfliktis-regionebshi>

facilities in the region, necessitating transfer to another region. Here again, it depends on the contacts of local doctors to speed up the transfer.²⁴⁵

Furthermore, individuals residing in conflict regions face challenges with international movement due to the lack of international travel documents. This limitation makes it problematic for them to seek healthcare in countries other than Russia. Therefore, individuals residing in conflict regions may face barriers in accessing healthcare services in other (European) countries, particularly in cases of particularly difficult health issues when the medical system of Georgia is not sufficient.

iii. *Social and economic situation*

The barriers to movement have profound socio-economic implications for many groups affected by the conflict. The closure of checkpoints has inflicted significant damage on families residing along the dividing line, as these checkpoints were often essential for their daily income. Moreover, small business enterprises such as shops, auto-vulcanizing facilities, and food establishments near the checkpoints formed vibrant economic and trade networks along the dividing lines. However, following their closure, these facilities were completely abandoned, which had a negative impact on the lives of the locals.²⁴⁶

In this regard, the example of the village of Khurcha and the village of Nabakevi is interesting. The checkpoint operating here facilitated crucial connections between the residents of these two villages. It not only provided access to education in their native language but also facilitated economic interactions. Residents often traded goods such as bread and nuts, bringing products from Nabakevi to Khurcha for sale. The population would go from Khurcha to Nabakevi to visit their relatives, as well as to help in agricultural activities.²⁴⁷ After the checkpoint was closed, according to unofficial data, 15 families that were left without an income left Khurcha village.²⁴⁸ The economic situation of the inhabitants of Nabakevi became worse, because the prices of everything tripled, including food and gasoline.²⁴⁹

The closure of the Orsantia-Otobaia checkpoint had similar severe social consequences, which is why the local population from these villages also resorted to internal or external migration.

Overall, it is important to note that the economic and social situation of the population living along the dividing line is twice as vulnerable compared to the rest of Georgia. This vulnerability is

²⁴⁵ Interview with Gali district doctor 18.12.2023

²⁴⁶ Democracy Reform Institute, Restrictions on the right to freedom of movement in Abkhazia and Tskhinvali region / South Ossetia, 2020, p. 21, p. 25; Social Justice Center, Communities in ABL villages Khurcha and Pakhulani live under dire social conditions, 23.08.2022, Available at: <https://socialjustice.org.ge/ka/products/gamqof-khaztan-mdebare-soflebis-khurchas-da-fakhulanis-mosakhleoba-mdzime-sotsialur-mdgomareobashia>

²⁴⁷ Vartanyan Olesya, Easing Travel between Georgia and Breakaway Abkhazia, 2019. <https://www.crisisgroup.org/europe-central-asia/caucasus/abkhazia-georgia/easing-travel-between-georgia-and-breakaway-abkhazia>

²⁴⁸ Democracy Reform Institute, Restrictions on the right to freedom of movement in Abkhazia and Tskhinvali region / South Ossetia, 2020, p. 25; Democracy Reform Institute, the epidemic situation in Tskhinvali is extremely severe - need of humanitarian aid, 02.11.2021, available at: <https://www.democracyresearch.org/geo/774/>; Social Justice Center (2020) Locked out Akhgori facing Coronavirus. Available at: <https://socialjustice.org.ge/ka/products/chaketili-akhgori-koronavirusis-pirispir>

²⁴⁹ Vartanyan Olesya, Easing Travel between Georgia and Breakaway Abkhazia, 2019. <https://www.crisisgroup.org/europe-central-asia/caucasus/abkhazia-georgia/easing-travel-between-georgia-and-breakaway-abkhazia>

further exacerbated by constant worries and fears related to security. Continued conflict and the emergence of dividing lines deprived a large part of the population of their source of economic income, the lands/gardens that they cultivated. In addition, the population living along the dividing line had close economic and trade ties with neighboring villages. Due to the closure of checkpoints and the restricted movement regime has cut off a significant source of income for many families.²⁵⁰ As an example of this, residents living near the dividing line of Shida Kartli often mention the Ergneti market, which was the main selling point of their agricultural products. The restriction of freedom of movement also hinders the transportation of goods between Samegrelo and Abkhazia, notably agricultural products such as nuts and citrus fruits. These products play a crucial role in the economic vitality of both regions.

The results of the research conducted by the United Nations Women's Organization in 2019 also show the difficult social situation in the villages of the dividing line. According to this study, the population living near the dividing line decreased by 33%, which is twice the rate of decline of the total population in Georgia.²⁵¹

As a result of the process of borderization, many plots of agricultural land fell into the occupied territory, some of the private houses and plots were completely or partially seized (for example, in the villages: Pakhulani, Gugutiantkari and others). According to the results of a study conducted by the United Nations Women's Organization in 2019, the population of the dividing line of the Tskhinvali region lost more resources as a result of borderization and continuous conflict compared to the population near the dividing line of Abkhazia. For example, near the dividing line of Tskhinvali region, the population lost 66% of pastures, 57% of timber resources, 50% of arable land, 38% of irrigation water and 35% of orchards.²⁵²

Due to creeping occupation, the majority of the population near the dividing line lost their agricultural lands, which were crucial for their livelihoods.

‘Do you see that? It is my house, and there is my nut farm twenty meters away. But we cannot enter it because it is occupied. So we watch from afar how our once flourishing farm is destroyed.’²⁵³

‘Our houses are on elevated ground. From here we look at our lands, which we have cultivated for years. Now it is occupied, who will let us in. Instead, we can clearly see how the Russian occupier works with the tractors sent by Putin.’²⁵⁴

There are a number of villages near the dividing line, where barbed wire has divided people's residences into two.

²⁵⁰ UN Women, (October, 2019) Assessing the needs of the population living near the dividing lines in Georgia, p. 19 Available at: <https://georgia.unwomen.org/sites/default/files/2022-02/ABL%20Needs%20Assessment%20ENG%202019%20Final.pdf>

²⁵¹ Ibid.

²⁵² Ibid.

²⁵³ Respondent from the village of Khurcha on the dividing line of Zugdidi municipality (22.06.2023)

²⁵⁴ The respondent is from the village of Patara Khurvaleti on the dividing line of Gori municipality (Bobnevi) (12.07.2023)

'Let me show you how the barbed wire has divided my yard. I can't go there. Russians don't come over either. Only sometimes Abkhaz can call me. I have a shop and this person passes me money and I give ice cream. I'm still scared. I live alone. My son can't come here, he was at war, and if they hear that he has come, I don't know what they will do'.²⁵⁵

Loss of land means loss of livelihood and income for families. Most of them do not have an alternative source of income. Insecurity and severe economic hardships serve as contributing factors to local migration, leading to an increasing number of young people leaving villages near the dividing line, with few, if any, returning.

The Ministry of Justice has started the systematic registration of land plots, however, the dividing line villages are planned for the end of 2023-2024, which is an indication that the state considers the dividing line villages to be a lower priority. Independent land registration is still associated with challenges, and the public registry is delaying the registration process for unknown reasons. The closure of checkpoints has a profound effect on the cost of household goods in conflict regions. According to locals, basic products are sometimes three to four times more expensive compared to the Georgian controlled territory. Additionally, essential medicines, particularly needed by the elderly population, are often unavailable.

iv. The right to family and private life

The restriction of freedom of movement severely impacts the conduct of personal and family life, particularly for the population of neighboring villages on both sides of the dividing line, who used to have interwoven kinship and family ties. Today, such separated families often do not have the opportunity to go to the graves of their loved ones, who are left behind the dividing line, even on holidays; they cannot go to a relative's funeral reception or a burial.²⁵⁶ The respondents often recall the cases when they mourn a close person from a distance, through the barbed wire.²⁵⁷ Due to restrictions on movement, families have to separate and divide based on various needs, including access to healthcare, education, economic activities, and other essential requirements.

*'When the Khurcha crossing was closed, I remember that mourners brought the coffin till this point (pointing to the ruins of the bridge), but then they could not cross. Behind the barbed wire they met the relatives living in Gali and they took the dead body and the flowers were sent floating on this small river.'*²⁵⁸

²⁵⁵ The respondent is from the village of Tskoushi on the dividing line of Tsalenjikha municipality 22/06/2023

²⁵⁶ "My father cannot come to Tbilisi from Akhagori for his sister's funeral" - 51 days of isolation, Netgazeti, 2019. Available: <https://netgazeti.ge/news/400978/>

²⁵⁷ See also: Democracy Reform Institute (2020) Restrictions on the right to freedom of movement in Abkhazia and Tskhinvali region. p. 22.

²⁵⁸ Respondent from Khurcha village. 24.07.2023

*'There used to be a bridge over this Enguri river here. Also, Abkhazians would actively cross the bridge. We were crossing it too, was it for a wedding or a vacation. There was no need to sneak away. After 2008, the Abkhazians destroyed the bridge and transportation became difficult. Now the Russians control it.'*²⁵⁹

The closure of the checkpoint particularly negatively impacts the elderly population, who are left alone behind the dividing line, unable to join other family members, and have no independent source of income other than social assistance/pension.

In Shida Kartli, the residents of the villages near the dividing line note that before the 2008 war, they had more relations with their familiar, neighboring Ossetians. Then the relationship slowly disappeared. The barbed wire further separated a society already divided by the war.

*'I had uncles and cousins there (in Tskhinvali), then we baptized each other's children, but today we no longer have a connection. They don't call me; we don't call either. This is how we know that they are listening and controlling, and this is dangerous for them. They won't even text us on social networks.'*²⁶⁰

The process of borderization left its mark on the residents of Abkhazia and the adjacent dividing villages. The mood of the population is mixed - sometimes hopeful, sometimes hopeless. They believe that they need more support to continue living safely on the ground.

It is noteworthy that the vast majority of the population living in Akhagori district have residential houses, small farms, economic activities and even workplaces in Georgian controlled territory, Tserovni settlement. Accordingly, the residents of Akhagori have close and active social and economic ties with the other side of the dividing line.²⁶¹ Restrictions on freedom of movement deprive this population of vital resources and result in severe social and economic damage. In addition, it has a negative impact on the exercise of the right to family and personal life. As a result of the Chorchana crisis, the isolated Akhagorians found themselves without medical care, pension, food and other basic resources.²⁶²

The IDP population perceives the restriction of freedom of movement severely. In addition to returning to their household, crossing the dividing line is important for them for maintaining family and personal ties. Many of them have relatives, family members, graves of relatives/family members across the dividing line.

IDP respondents mentioned that, despite the danger and insecurity, they believe that 'the house is in the occupied territory'. Most of them note that they had more opportunities to move before the

²⁵⁹ The respondent is from Shamgona village on the dividing line of Zugdidi municipality 21/06/2023

²⁶⁰ Respondent from the village of Ergneti on the dividing line of Gori municipality 11/07/2023

²⁶¹ the Impact of so-called checkpoint closures in 2019-2020, p. 9.

²⁶² 2019 report of the Public Defender, p. 393.

2008 war. They used to go to the territory of Abkhazia for weddings, funerals, to visit graves and relatives. IDPs still have the desire to move for similar purposes, although most of them do not have the opportunity to move safely and freely.

‘There is my house. My relatives take care of me. I look forward to the day when we return. That’s think that my childhood is left there, an important part of my life is waiting for me.’²⁶³

‘I haven’t been in years. Probably after the 2008 war. We buried my father there in 2004. We used to go often. not now. I miss my father so much, I want to go to the grave, but ...’²⁶⁴

The respondent IDPs often mention that here in the Georgian controlled territory, 'the house could not become a home,' and they hold onto hope for a return. Members of divided families, with some relatives residing in the conflict zone, express a longing to return. They seek to care for the graves of their ancestors and pay respect to ancestral shrines, among other reasons.

‘We have a shrine of our family name in Dikhazurga. Every year, the whole family used to gather for the New Year. It was an important shrine and tradition for us. Now I can’t count how many years this tradition has been broken. Whether we return or not, we will restore it, of course.’²⁶⁵

When discussing the prospect of returning, IDPs are primarily concerned about safety and the presence of others currently residing in their homes.

‘Abkhazians now live in my house in Sokhumi. If I come back, I don’t know how it will be. They have been living there for 30 years, they probably don’t want to leave and vacate my house. I don’t know how to act either. I want to go home too.’²⁶⁶

The lack of safety and restricted movement are pressing issues for representatives of mixed families too.

²⁶³ IDP respondent from Gali 11.12.2023

²⁶⁴ IDP respondent from Gali. 10.12.2023

²⁶⁵ IDP respondent from Gali. 11.12.2023

²⁶⁶ IDP respondent from Abkhazia 10.12.2023

*'My brother, nephews, and sisters all live in Sukhumi. I miss them all the time, but I can't visit them often due to the hassle of arranging documents. I feel like I'm being monitored constantly when I come and go. I don't feel free. Whether there or here, I avoid discussing politics. I only speak positively. Why should I say anything negative? Both sides are members of my family.'*²⁶⁷

3. International legal standards of freedom of movement

Freedom of movement in international human rights law comprises three main components. Firstly, it encompasses the freedom to move within the territory of the country where an individual is legally present, as well as the right to leave that country, including one's own. Additionally, everyone has the right to enter the country of which they are a citizen.

All these components of freedom of movement are defined both in the European Convention on Human Rights (Articles 2 and 3 of the Protocol No. 4), as well as in the following UN human rights instruments: the Covenant on Civil and Political Rights (Article 12); Convention on the Rights of the Child (Article 10); Convention on the Rights of Persons with Disabilities (Article 18); Convention on the Protection of Women's Rights (Article 15); Convention on the Elimination of Racial Discrimination (Article 5). All of these human rights legal instruments recognize that freedom of movement, residence within the recognized borders of a country, and freedom of movement are fundamental human rights. Moreover, the Article 5 of the Convention on the Elimination of All Forms of Racial Discrimination specifies that member states are obliged to eliminate all forms of discrimination and that people should not be restricted on the basis of race, skin color, ethnic origin or nationality in their freedom of movement and the ability to stay within the territory of the state, as well as to leave the country and the right to return to one's own country, as well as the right to citizenship.

This section of the study will analyze the relevant legal instruments, norms, and case law pertaining to the research topic, aiming to elucidate the international standards of freedom of movement within the specified context. This chapter will delve into the international legal standards concerning freedom of movement, examining the scope of this right and the concept of 'legally staying in the territory of the state.' It will explore whether imposing different regimes of movement within recognized borders, including the establishment of checkpoints, constitutes a violation of this right. Furthermore, the chapter will analyze how international jurisprudence interprets freedom of movement in the complex contexts of ongoing conflict, annexation, and occupation. In this regard, the European Court of Human Rights' practice in assessing freedom of movement issues within contexts of unresolved conflicts, such as those in Georgia, Moldova, Cyprus, and Ukraine, is particularly noteworthy.

Based on the case law of the European Court of Human Rights, the freedom of movement defined in the Article 2 of the Protocol No. 4 [to the European Convention on Human Rights] refers only to natural persons. Based on case law, the scope of the right covers foreigners and stateless

²⁶⁷ IDP respondent from Sukhumi. 18.12.2023

persons.²⁶⁸ In addition, the subject of the right can be minors, persons with disabilities, as well as arrested/imprisoned persons (the Court also did not consider that this group of individuals were not a subject of this right).²⁶⁹

It should be noted here that while the right to leave the country, including the right to leave one's own country, is addressed to 'everyone', the freedom of movement and the right to choose the place of residence are addressed only to those who are 'legally present in the territory of the country'. Therefore, judicial practices for explaining and defining this concept vary considerably. According to the practice of the Court, it is established that 'legal presence in the territory of the country' is determined by the legislation of the same country. The rules governing how people enter and stay in a particular country are fully subject to the internal sovereign decision of the country.²⁷⁰ It is also a matter of discussion what does 'State Territory' mean. The European Court of Human Rights deliberates on this issue during the definition of the issue of jurisdiction under the Article 1 of the Convention and determines it primarily by the principle of territoriality. States are obliged to protect the rights and freedoms provided for in the Convention within their territory. The Grand Chamber, in a case against Spain, explained that a country's territory begins where its boundary line begins.²⁷¹

When addressing the freedom of movement, the European Court only interprets territory within internationally recognized borders. Secession regimes that have separated the territory of a particular state, but have not gained recognition, are not considered as independent territories for the purposes of freedom of movement. In *Denizci and Others v. Cyprus*, in 2001, the European Court found a violation of the right to freedom of movement. The Court examined appeals by Turkish Cypriots who claimed to have been restricted in their freedom of movement from the unrecognized Republic of Northern Cyprus to the controlled territory of Cyprus and vice versa. According to the applicants, between April 4th and April 22nd, 1994, they were driven by the Cypriot police from the controlled area to the non-controlled area in northern Cyprus. Additionally, the Cypriot police detained and ill-treated them, and forced them to sign a testimony in which they stated that they had voluntarily moved to the northern side. They were expelled and warned that their lives would be in danger if they returned to the southern part. In addition, the affidavits in the case reveal that the applicants have been going to the southern part of Cyprus for years for work and have been repeatedly subjected to control, ill-treatment and threats by the Cyprus Police, forcing them to move to the northern part.²⁷² On June 2, 1994, after returning to the southern part, the son of one of the applicants was killed by unknown persons. Also, according to the applicants, during their return to the controlled territory, the Cypriot authorities monitored their every movement from the north to the south of Cyprus and to the southern territory (controlled territory). The applicants were not able to move freely in southern Cyprus, and had to notify the police every time they wanted to go to northern Cyprus to visit family and relatives. According to the Court's assessment, these measures were neither in

²⁶⁸ *Shiashvili and Others v. Russia*, 2016; *L.B. v. Lithuania*, * 2022; *Baumann v. France*, 2001, *Bolat v. Russia*, 2006; *Miażdżyk v. Poland*, 2012; *Roldan Teixeira and Others v. Italy* (dec.), 2000; *Mogoş and Others v. Roumania* (dec.), 2004; *Härginen v. Finland*, Commission decision, 1998.

²⁶⁹ Guide on Article 2 of Protocol No. 4 to the European Convention on Human Rights, Freedom of movement, Council of Europe, 2022, par. 26-29.

²⁷⁰ Guide on Article 2 of Protocol No. 4 to the European Convention on Human Rights, Freedom of movement, Council of Europe, 2022, par. 36-37. იხ. ასევე: GENERAL COMMENTS ADOPTED BY THE HUMAN RIGHTS COMMITTEE UNDER ARTICLE 40, PARAGRAPH 4, OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, par. 4.

²⁷¹ *N.D. and N.T. v. Spain* [GC], § 109;

²⁷² *Denizci and Others v. Cyprus*, 2001, 407-411.

accordance with the Cypriot legislation, nor derived from the needs of a democratic society. The Court did not discuss the justice of expelling one's own nationals, which is prohibited by Article 3 of the Protocol No. 2, rather the Court noted that the applicants did not regard the matter as 'expulsion to the territory of another country', although the court unequivocally determined that the authorities of the Republic of Cyprus were the only legitimate authorities responsible for the restriction of freedom of movement throughout the country.

This decision in 2001 against Cyprus is the basis for subsequent cases related to restrictions on freedom of movement in similar contexts. In the case of *Dobrovitskaya and Others v. the Republic of Moldova and Russia*, the European Court in 2019 discussed the restriction of free movement on the territory of Moldova by the *de facto* regime of the Pridnestrovian Moldavian Republic (PMR). The MRT regime restricted the applicant's ability to leave the PMR area and move into Moldovan controlled territory. As a result, the applicant was unable to continue her studies in Moldova and to meet her lawyer outside the MRT. The Court combined the mentioned statement with six other substantially similar cases, which were related to alleged violations of various rights in the territory of Transnistria. The case of *Dobrovitskaya* is a rare exception, where the Court, in addition to negative obligations regarding freedom of movement, also discussed positive obligations of the state. The European Court of Human Rights has consistently held the Russian Federation accountable for human rights violations in the unrecognized Moldovan Transdnistrian Republic due to its effective control over the territory. Several landmark decisions, such as the case of *Ilascu and Others v. Moldova and Russia*, have established precedents in this regard. However, in addition to the responsibility of the Russian Federation, the Court also established that the territorial jurisdiction of the Republic of Moldova still extends to the territory of Transnistria, therefore, the question of its responsibility may also arise for the human rights violations. Specifically, as a member state of the European Convention, it has a positive obligation to fulfill and protect all persons under its jurisdiction from unjustified interference with their rights.²⁷³

Regarding the Court's evaluations regarding freedom of movement in the *Dobrovitskaya* case: the Court found that the restriction of a person's freedom of movement in the MRT area was not a decision taken by the state of Moldova, and moreover, given that the authorities of a self-proclaimed, unrecognized state have no legal right to impose restrictions on movement, and that such interference with the applicant's freedom of movement constitutes a violation of the right. The court assigns the responsibility for such a violation (as in the case of other rights violations) to the state exercising effective control over the territory - the Russian Federation.²⁷⁴

Regarding the fulfillment of positive obligations by the Republic of Moldova, the Court here, taking into account its previous practice (*Mozer v. the Republic of Moldova and Russia* (2016)), examined the following two components: 1) whether Moldova fulfilled its positive obligation to restore control over the territory of Transnistria as an expression of its jurisdiction and 2) whether it has taken appropriate measures to protect individual human rights.²⁷⁵ Thus, the fulfillment of positive obligations in the context of an ongoing conflict was divided by the Court into two parts: first, the state must take all measures to restore control over its entire territory, enabling the full enforcement of human rights and thereby fulfilling its convention obligations. Secondly, the state

²⁷³ *Ilascu v. Moldova and Russia*. Par. 348-351.

²⁷⁴ *Dobrovitskaya and Others v. the Republic of Moldova and Russia*., par. 96-99.

²⁷⁵ *Dobrovitskaya and Others v. the Republic of Moldova and Russia*. Par. 60-61. See also: *Ilașcu and Others* (cited above, §§ 339-40; The Court took the same approach in *Catan and Others* (cited above, § 145).

must take all necessary measures to prevent the violation of individual rights and to safeguard them.

In assessing the first component of the positive obligations, the Court relied on the factual circumstances and assessments already studied in the case of *Ilascu and Others v. the Republic of Moldova and Russia* in 2004, according to which Moldova is taking all measures to restore control over the territory of Transnistria and thus restore jurisdiction (including the full exercise of human rights).²⁷⁶ Since then, neither party has presented any argument suggesting that Moldova has altered its stance regarding Transnistria.²⁷⁷ Consequently, the Court deems that Moldova has upheld the initial aspect of positive obligations.

Regarding the second component of the positive obligation concerning the protection of individual rights, the Court's ruling in the Dobrovitskaya case indicated that Moldova fell short in fulfilling its obligations. Unlike in previous cases, Moldova neglected to engage in effective international advocacy to protect individual rights, failed to adequately liaise with international organizations and embassies, and encountered obstacles in concluding individual criminal investigations due to a lack of cooperation with local *de facto* authorities.²⁷⁸ Regarding the case of illegal detention and ill-treatment during detention, the Court determined that Moldova fulfilled its positive obligations. Moldova initiated a criminal investigation into the violations perpetrated by the MRT authorities. However, due to the lack of cooperation from these authorities, criminal prosecution became unfeasible, leading to the termination of the investigation. The Court concluded that Moldova met its positive obligations in this instance.

As for Russia's responsibility, the Court maintains a consistent standard across cases with similar contexts. The Court deems that when a state exercises effective control over a specific territory, it extends its jurisdiction beyond its borders, thereby assuming responsibility for human rights violations occurring in that territory. In this case, the Court does not consider it necessary for the state exercising effective control to exert meticulous oversight over the policies and actions of the local administration subordinate to it. Its continued military, economic, and political support to *de facto* regimes is a sufficient component for the state exercising effective control to be responsible for human rights violations in the territory (including actions carried out directly by the *de facto* authorities over which the state exercising effective control has no detailed control over).²⁷⁹ When analyzing the restriction of freedom of movement in the context of the ongoing conflict, the case of *Georgia v. Russia (II)* is also interesting, where the Court discussed the rights of ethnically Georgian internally displaced persons who were expelled from their places of residence after the armed conflict, and the administration of Abkhazia and South Ossetia did not give them the opportunity to return. The Court determined that the case involved an administrative practice of violating freedom of movement (a continuous and institutionalized violation of human rights - a rule that directly contradicts human rights and is administered by official bodies). The Court defined the imposition of so-called 'border control' by the *de facto* authorities inconsistent with the freedom of movement defined by the Convention and international standards. Accordingly, the Court considered this administrative practice of

²⁷⁶ *Ilascu and Others* (cited above, §§ 339-40).

²⁷⁷ *Dobrovitskaya and Others v. the Republic of Moldova and Russia*, par. 61. *Mozer v. the Republic of Moldova and Russia*, par. 64-65.

²⁷⁸ *Dobrovitskaya and Others v. the Republic of Moldova and Russia*, par. 62.

²⁷⁹ *Dobrovitskaya and Others v. the Republic of Moldova and Russia*, par. 70-71.

violation of freedom of movement to be a violation of Article 2 of the Protocol No.4, and held the Russian Federation accountable for it.

The Court's stance on freedom of movement within the context of the annexation of Ukrainian regions is interesting. According to the Court, when addressing violations of rights outlined in the European Convention, such as in cases involving the potential 'annexation' of one state's territory by another, it is necessary to determine which state's territorial jurisdiction extends to this territory.²⁸⁰ In defining the concept of 'territory of a country', it is clear that the Court refrains from defining whether a particular territory is legally within the borders of a particular state. As a rule, the Court takes as a given the internationally recognized borders of the countries, attributing responsibilities to the authorities within those boundaries accordingly.

The court explained that the legal assessment of the legality of the 'annexation' of the territory goes beyond the scope of its jurisdiction, however, for the purposes of the European Convention, the analysis of the issue of territorial jurisdiction (Article 1) is possible beyond the discussion on 'annexation'.²⁸¹

While considering the interstate dispute between Ukraine and Russia, the Court tentatively distinguished between the period to and after March 18, 2014, when an agreement was signed between the Russian Federation, the 'Republic of Crimea' and Sevastopol, incorporating Crimea and the City of Sevastopol in the constitutional composition of Russia. The Court affirmed the presence of 'effective control' by the Russian Federation during both periods, a prerequisite for establishing extraterritorial jurisdiction under Article 1 of the Convention.

In Crimea, the measures undertaken by the Russian armed forces, documented as evidence in the case, along with statements made by Russian state representatives, provide a substantial foundation for the Court to establish effective control during this specific period. After 2014, the Court relied on the fact that Russia and Ukraine, as member states of the European Convention, ratified the Convention within the bounded territory, and the international community, in accordance with international law, had refused the issue of violation of Ukraine's territorial integrity in relation to Crimea.²⁸² Based on this, the Court concluded that, for the purposes of the Convention, Crimea remains within the territorial jurisdiction of Ukraine. However, considering the effective control exerted over the region, the extra-territorial jurisdiction of the Russian Federation applies to it. Accordingly, the Court established Russia's responsibility for allegedly restricting the freedom of movement of individuals from the territory of Crimea to the rest of Ukraine.²⁸³

The Court concluded that any violation that the applicant country (Ukraine) was bringing before the Court was addressed to the Russian Federation as the country exercising 'effective control', and not as the state that on March 21, 2014, on the basis of the 'unification treaty' annexed the territory of Ukraine.²⁸⁴

²⁸⁰ Protocol No.4 Article 2, par. 49. (Ukraine v. Russia (re Crimea) (dec.) [GC], 2020, §§ 243-244 and 339

²⁸¹ Ibid. par. 25. https://www.echr.coe.int/documents/d/echr/Guide_Art_1_ENG

²⁸² Ibid.

²⁸³ Ukraine v. Russia, par. 352

²⁸⁴ Ukraine v. Russia (re Crimea) (dec.) [GC], 2020, § 352

In analyzing freedom of movement in the context of an ongoing conflict, the 2008 judgment of the European Court of Justice in *Stephens v. Cyprus, Turkey and the United Nations* is also interesting. The applicant argued that his freedom of movement was violated because he was unable to access his house located within the buffer zone delineated by the United Nations between northern and southern Cyprus. The Court dismissed this claim, reasoning that neither Cyprus nor Turkey had jurisdiction or control over the UN-administered buffer zone. Consequently, they were not accountable for ensuring freedom of movement within that area. Thus, the lawsuit was addressed to the United Nations, which is not a signatory to the convention.²⁸⁵

Decisions of the European Court also address the restriction of freedom of movement in the context of ongoing conflicts in connection with other rights. These cases involve restrictions on the return of internally displaced persons to their homes, which not only implicate freedom of movement but also constitute violations of Article 8 of the Convention, guaranteeing the right to private and family life.²⁸⁶ In addition, in such contexts, the Court also discussed the restriction of freedom of movement, which is also related to the restriction of access to property (Article 1 of the Protocol No. 1). In *Loizidou v. Turkey, Cyprus v. Turkey*, and other cases, the Court found that restricting access to property is equivalent to restricting freedom of movement in these cases.²⁸⁷

The Court also recognized the connection with the right to respect to private and family life in one of the cases brought against Cyprus (*Denizci and Others v. Cyprus*). In this case, the Court deemed the restrictions on movement and the excessive police control over movement between controlled and non-controlled areas to constitute violations of both freedom of movement and the right to private and family life. Due to movement restrictions, Turkish Cypriots were not able to freely exercise their right to private and family life, to move freely to visit family and relatives in the non-controlled northern part of Cyprus.²⁸⁸ The same connection was established by the Court in the 2001 judgment in *Cyprus v. Turkey*.²⁸⁹

In the same case, the European Court considered restrictions on freedom of movement in the context of access to health services.²⁹⁰ The Court noted that the administrative practices of the authorities of the self-proclaimed Republic of Northern Cyprus (the Turkish Republic of Northern Cyprus - TRNC) in imposing a regime of restrictive freedom of movement affected the access to health care of Greek Cypriots and Maronites living in the northern part of Cyprus when they wanted to receive the mentioned service in southern Cyprus. The Court analyzed access to medical services within the purview of Article 2 of the Convention (right to life). In this instance, the court did not discern a breach of the right to life, as it did not establish a direct nexus between the curtailment of freedom of movement and the infringement upon the right to life attributable to the absence of access to medical services. Nevertheless, the Court acknowledged the potential for such a correlation to arise from specific factual scenarios in certain individual cases.

²⁸⁵ *Stephens v. Cyprus, Turkey and the United Nations* (dec.), 2008, Application no. 45267/06, [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-90868%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-90868%22]})

²⁸⁶ *Cyprus v. Turkey* [GC], 2001, § 175; *Doğan and Others v. Turkey*, 2004, § 160; *Chiragov and Others v. Armenia* [GC], §§ 206-208) and Article 2 of Protocol No. 4 (*Georgia v. Russia (II)*) [GC], 2021, § 299.

²⁸⁷ *Cyprus v. Turkey* [GC], 2001, § 189; *Chiragov and Others v. Armenia* [GC], § 201

²⁸⁸ *Denizci and Others v. Cyprus*, 2001, §§ 403-406.

²⁸⁹ *Cyprus v. Turkey* [GC], 2001, §§ 294-296

²⁹⁰ *Cyprus v. Turkey*, 2001. Para 216-222.

The case of *Djavit An v. Turkey*²⁹¹ is another interesting case from the practice of the European Court of Human Rights, which deals with freedom of movement between controlled and non-controlled areas of Cyprus in the context of freedom of expression and assembly. In particular, the applicant argued that he is restricted from crossing the 'green line', which hinders his participation in the bi-communal meetings²⁹² held in southern Cyprus. The Court assessed the circumstances of the case and found that the plaintiff was granted only 6 permits out of 46 requests for crossing the 'green line', which hindered the process of his participation in the peace negotiations.²⁹³

It is also noteworthy that in assessing the legality of restrictions on freedom of movement, the court employs a consistent assessment framework akin to that applied in cases involving other rights. In particular, it evaluates whether the restriction is prescribed by law, whether it is necessary in a democratic society, and whether the restriction is proportionate to achieve the legitimate goal for which it is established. In the context of protracted conflicts, where restrictions on freedom of movement are imposed by *de facto* regimes, the Court considers that these restrictions are not prescribed by the law of a specific country, and thus constitute unlawful limitations.²⁹⁴

In addition, the Court considers the 'foreseeability' of regulations on movement to be a test that prevents arbitrary restrictions by official bodies. In many cases, the court has determined that the imposition of arbitrary restrictions, the indeterminacy of the procedures related to movement lead to the possibility of illegitimate interference with the right.²⁹⁵ Although the reasoning related to 'foreseeability' is not related to the context of protracted conflict, it is important to keep this criterion in mind in relation to the research context. This is because the frequent alterations in movement regulations, unpredictable checkpoint operations, procedures lacking legal definition, and associated corrupt practices contribute to the persistent violation of freedom of movement. Additionally, considerations regarding the foreseeability and clarity of movement restrictions, particularly having prior knowledge of the duration of the restriction, constitute significant factors in assessing its proportionality.²⁹⁶

Summary

The analysis of the practice of the European Court of Human Rights reveals that in the context of a protracted conflict, the movement regime established by the *de facto* regimes violates the freedom of movement guaranteed by the Convention, for which responsibility is placed on the state instigating effective control. On the other hand, states that retain *de jure* jurisdiction over conflict regions, although temporarily unable to exercise control, are not exempt from their obligations to protect human rights. On the one hand, they have a negative obligation not to interfere illegitimately in the space protected by the right guaranteed by the Convention, and on the other hand they have a positive obligation to take all political, legal, administrative or institutional measures to ensure these rights. In the direction of the definition of positive obligations, the Court determined that the state must take all measures to restore control over its

²⁹¹ *Djavit An v. Turkey* App no. 20652/92 (ECHR, 20 February 2003).

²⁹² *Ibid*, para 54,

²⁹³ *Ibid*, paras 58-62.

²⁹⁴ *Denizci and Others v. Cyprus*, 2001, § 406;

²⁹⁵ *De Tommaso v. Italy* [GC], 2017, § 125; *Timofeyev and Postupkin v. Russia*, 2021, § 129; *Sissanis v. Romania*, 2007, §§ 68-69.

²⁹⁶ *Riener v. Bulgaria*, 2006, § 113.

entire territory, where it can fully enforce human rights (fulfil its convention obligations) and secondly, the state must take all measures to protect individual rights in case of violation.

Chapter 3 - International experience

The analysis provided in the second chapter of the study demonstrates that, within the framework of protracted conflicts, the regulation of freedom of movement, particularly regarding traffic modes, emerges as one of the most crucial legal and political concerns. This legal aspect, rooted in fundamental human needs, cannot solely rely on a comprehensive political resolution of the conflict. Hence, the chapter presented delves into the accumulated experiences of countries in other relevant contexts regarding the regulation of freedom of movement between controlled and non-controlled territories, along with the regulation of international movement originating from non-controlled territories.

The cases of Moldova and Cyprus are examined further below, providing examples that bear varying degrees of relevance to the protracted conflicts in Georgia. It is clear that the current political situation, the involvement of international actors, the geopolitical interests and influence mechanisms of the state exercising effective control, the current situation in terms of international recognition create different realities from Georgia; however, the continuity of the conflict and the continued existence of an unrecognized regime within the country's sovereign borders bring these contexts closer together. Consequently, the experience of regulating freedom of movement in these realities becomes relevant for the context of Georgia and may become a source of inspiration for recommendations/alternatives.

3.1. Moldova

A brief historical overview of the conflict

In the late 1980s and early 1990s, the Moldovan Soviet Socialist Republic, like other republics within the Soviet Union, fought for emancipation and independence from the center. Within the population of the Republic of Moldova, the initial confrontation emerged among factions of the national liberation movement. This conflict arose against the backdrop of vocal advocacy by 'Unionist' members, who, following the dissolution of the Soviet Union, championed the unification of Moldovans with Romanians.²⁹⁷ The issue of the state language was a principle for the national liberation movement. In 1989, Moldova passed three new language laws that declared Moldovan the state language, recognized its unity with Romanian, and officially made the Moldovan script Latin. The law also specifically stated the right of citizens of other ethnic origins living in the republic to learn, use and develop their native language.

The issue of the state language was a pivotal concern for the national liberation movement. In 1989, Moldova enacted three new language laws, establishing Moldovan as the state language and recognizing its linguistic unity with Romanian. Additionally, the laws officially adopted the Latin

²⁹⁷ Shamugia V. (2019) Transnistrian Conflict. Dissertation submitted for the academic degree of Doctor of History. Faculty of Humanities. p. 55. Available at: <https://digitallibrary.tsu.ge/book/2021/apr/dissertations/shamugia-disertacia.pdf>

script for the Moldovan language.²⁹⁸ Importantly, the law also affirmed the rights of citizens belonging to other ethnic backgrounds residing in the republic to learn, use, and promote their native languages.²⁹⁹

Minority groups that did not speak Moldovan or Romanian languages opposed these reforms related to the state language. The fear of the imminent reunification of Moldova with Romania and the suppression of the interests of other minority groups were significant concerns among the Russian-speaking population residing primarily in the Transnistria region. With the support of political leaders, mass demonstrations advocating for the official use of the Russian language and its recognition as a state language alongside Moldovan began³⁰⁰. Additionally, there were strong inclinations among the population of Transnistria to preserve the Soviet Union and safeguard socialist values.³⁰¹

The ethnic Gagauz living in the southern region of the Republic of Moldova also became politically active, advocating for entry into the Soviet Union as an independent autonomous entity. On November 12, 1989, an announcement was made regarding the establishment of the Soviet Socialist Republic of Gagauzia, which was promptly deemed unconstitutional by the Moldavian SSR. Nonetheless, Gagauz political leaders persisted in their efforts to pursue their political objectives. The protests of the Russian-speaking population residing in the Transnistria region evolved into a movement seeking secession from the Republic of Moldova, aspiring to exist as a separate republic within the Soviet Union.³⁰² On June 23, 1990, the Moldavian SSR adopted a declaration of sovereignty, which in turn implied the recognition of the primacy of national laws over the laws of the Soviet Union within the Republic of Moldova. In reaction, the self-proclaimed Moldavian Republic of Gagauzia and Moldovan Transdniestrian Republic (PMR) were established in the regions of Gagauzia and Transnistria, respectively³⁰³. However, the Republic of Moldova declared these entities null and void. After the Moscow putsch of 1991 and the removal of Soviet President Mikhail Gorbachev from power, the Republic of Moldova declared its independence. In response, the Moldovan Transdniestrian Republic (PMR) advocated for independence from Moldova while remaining within the Soviet Union. Subsequently, armed groups took control of police buildings, administrative offices, schools, radio stations, and newspapers. The situation escalated to the point where Moldova declared a state of emergency on March 28, 1992, although sporadic violent confrontations persisted.

Amidst the unrest, from June 19-21, 1992, the pivotal intervention of the Russian 14th Army stationed on the left bank of the Dniester River proved decisive in the armed conflict.³⁰⁴ The 14th Army, comprising approximately 10,000 soldiers, was later restructured into the Operational Group of Russian Forces (OGRF) in 1992, subsequently undergoing reductions.

²⁹⁸ Vahl, Marius; Emerson, Michael, *Moldova and the Transnistrian conflict* JEMIE - Journal on ethnopolitics and minority issues in Europe, p.1, p. 5. Available at: <https://www.ssoar.info/ssoar/bitstream/handle/document/6196/ssoar-jemie-2004-iss-1-vahl-et-al-moldova-and-the-transnistrian-conflict.pdf?sequence=1&isAllowed=y&lnkname=ssoar-jemie-2004-iss-1-vahl-et-al-moldova-and-the-transnistrian-conflict.pdf>

²⁹⁹ Ibid.

³⁰⁰ Ibid

³⁰¹ Transnistrian Conflict., OSCE Mission [Available at: <https://www.osce.org/files/f/documents/4/3/42308.pdf>]; See also: Thomas de Vaal, *Uncertain Ground*, Carnegie Europe, p. 39.

³⁰² Ibid.

³⁰³ Ibid.

³⁰⁴ Ibid.

On July 21, 1992, a ceasefire agreement was signed between the Russian Federation and the Republic of Moldova, aimed at resolving the conflict through peaceful means.³⁰⁵ According to the ceasefire agreement, a 10-kilometer-long demilitarized security zone was established on both the right and left banks of the Dniester River. Additionally, fundamental principles were developed, including respect for the sovereignty and territorial integrity of the Republic of Moldova, the necessity of granting a special status to the left bank of the Dniester region, and the right of the population of the Transnistrian region to determine their own future in the event of Moldova's reunification with Romania. A Joint Control Commission (JCC) was established to oversee the implementation of the agreement. It consisted of delegations from Moldova, the unrecognized Moldavian Republic of Transnistria, and the Russian Federation.³⁰⁶

The armed conflict in the Transnistrian region resulted in the deaths of up to a thousand people, with an estimated hundred thousand individuals forcibly displaced as a consequence of the conflict.³⁰⁷

Peace negotiations and international engagement

In 1993, the Organization for Security and Cooperation in Europe (OSCE) established a special mission in Moldova to facilitate the international resolution of the Transnistrian conflict, uphold regional security, and prevent further escalation of hostilities.³⁰⁸ Over the years, the OSCE mission has been instrumental in convening and overseeing meetings between the parties involved, as well as producing reports and analytical documents addressing key issues in the region.

After the armed conflicts of the 1990s and the dissolution of the Soviet Union, the European Union initiated efforts to mobilize resources aimed at ensuring security and peace in post-Soviet conflict regions. The main activities of the international community in the Transnistrian region are aimed at building trust at the local level, including the development of civil society, which is an important support for international organizations working there. In parallel with the international peace talks, to strengthen the region, the European Union implemented the following initiatives: the European Neighborhood Policy (ENP) (2003), the European Border Assistance Mission (EUBAM) in Moldova and Ukraine (2005) and the Eastern Partnership (EaP) (2009).³⁰⁹

Since 2005, the process of 5 + 2 format negotiations has started, where Moldova, the unrecognized Pridnestrovian Moldovan Republic and the Russian Federation are Sides, Ukraine and the OSCE are Mediators, and the European Union and the United States are the Observers. Within the framework of the negotiations, along with many other topics, issues related to freedom of movement between the right and left banks of the Dniester River and international traffic in the Transnistria region are considered. It's worth noting that unlike other unrecognized states, it is more open to the international community.³¹⁰

³⁰⁵ Ibid.

³⁰⁶ Security and Human Rights in Eastern Europe (2021) The Transnistrian Conflict: 30 years searching for settlement., SCREEUS Report on Human Rights and Security N.4., p. 2. 2021

³⁰⁷ Thomas de Vaal, Uncertain Grounds, 39.

³⁰⁸ CSCE Mission to Republic of Moldova., CSCE/19-CSO/, Journal N., Annex 3., 1993 Available at: <https://www.osce.org/files/f/documents/6/0/41137.pdf>

³⁰⁹ Khalilzada J., The EU's Peacebuilding in Moldova: analysis of the EUBAM as a conflict prevention and peacebuilding strategy in Moldova-Transnistria conflict., 2022., p. 129.

³¹⁰ Transnistrian Conflict, OSCE, p.2. Available at: <https://www.osce.org/files/f/documents/4/3/42308.pdf>

In 2006, after the creation of EUBAM, Russia suspended the negotiation process and did not resume it until 2012, although since 2016 the process has been reactivated.³¹¹ In 2016, the Berlin package was added to the negotiations, which began to be implemented in 2017-2018.

It should be noted that the last meeting was held in 2019, followed by the 2020-2021 electoral cycle in Moldova. The state rhetoric regarding the consideration of Moldova's interests in the negotiation process has also noticeably hardened.³¹² Since the start of the war in Ukraine, the negotiation process has been virtually inactive, and Chisinau is using all possible diplomatic resources to shift the peace talks to an alternative format.³¹³

In February 2023, Moldova presented a state program, which prioritizes the issues of demilitarization of the Transnistrian territory, the restoration of full sovereignty of Moldova and the implementation of a European integration program throughout Moldova, including the Transnistrian region. Moldova also expressed its support for the steps taken by the OSCE mission to protect human rights in the Transnistrian region. The Moldovan authorities announced their intention to sustain direct, one-on-one dialogue with Tiraspol to advocate for the interests of the populations residing on both sides of the Dniester River, ensuring stability, preventing incidents, and engaging in negotiations as part of bilateral dialogue within the '5+2' process. Also, to encourage the issue of freedom of movement, for the purposes of cultural rapprochement and social integration.³¹⁴

Dynamics of policies related to movement regime

The clauses of the ceasefire agreement also addressed the regulation of movement between the left and right banks in the Transnistrian region.³¹⁵ The ongoing political dialogue and the established format of discussions on specific issues between the parties have further facilitated dialogue concerning freedom of movement.³¹⁶

Since 2005, parallel with the '5+2' negotiation process, fourteen checkpoints have been established in the region, and six checkpoints were added in 2014.³¹⁷ The association agreement signed with the European Union in 2014 entails bilateral obligations. In exchange for visa-free travel of Moldovan citizens to the European Union, Moldova is obligated to enhance migration control throughout its territory, including the Transnistrian region. Illegal border control is also facilitated by steps taken within the mandate of the European Union Border Assistance Mission (EUBAM).³¹⁸ The EUBAM mission was established in 2005 for the purposes of border control

³¹¹ Vladimir Socor, Russo-Ukrainian War should doom the 5+2 negotiations, 2023, January, part 1-2. Available at <https://jamestown.org/program/russo-ukrainian-war-should-doom-the-52-negotiations-on-transnistria-part-one/>

³¹² Ibid.

³¹³ Ibid.

³¹⁴ Socor Vladimir, Moldova Extricates from Russian-Dominated Process on Negotiations on Transnistria., Eurasia Daily Monitor., Volume 20., Issue 33., 2023 [access at: <https://jamestown.org/program/moldova-extricates-from-russian-dominated-process-of-negotiations-on-transnistria-part-one/>

³¹⁵ The Transnistrian Conflict: 30 years searching for settlement., SCEEUS Report on Human Rights and Security N.4.,

³¹⁶ Ibid.

³¹⁷ Republic of Moldova's Policies in the Context of Liberalization of Regime of The Visa Regime with the EU – the Impact on the Migration Process., Natalia PUTINĂ., 2017., p.119. Available at:

https://socioumane.uoradea.ro/vechi/socioumane.ro/blog/monnet/events/international-conference/materials/Brie_The%20Role.pdf

³¹⁸ Ibid.

between Ukraine and Moldova, including the control of the *de facto* border of Transnistria. Although the mandate of this mission does not explicitly include the protection of human rights and primarily focuses on combating illegal migration and, since 2015, also trafficking, EUBAM indirectly contributes to the overall improvement of human rights. Border controls have also reduced smuggling-related crimes and improved cooperation between the EU, Tiraspol and Chisinau.

In 2016, the Berlin package was added to the '5+2' negotiations, which began to be implemented in 2017-2018. The Berlin package radically changed the situation related to freedom of movement and brought the Transnistrian region closer to the European Union. The Berlin package entailed the addition of several points to the '5+2' negotiations, notably including the rehabilitation of a bridge to facilitate residents' crossing into Moldovan-controlled territory.³¹⁹

As a result of the same negotiations, it became possible to assign such numbers to the vehicles of persons living in Transnistria, which would allow them to move on the territory of the European Union. As a result of these negotiations, it became possible to issue special license plates for the cars owned by individuals residing in Transnistria, enabling them to travel within the territory of the European Union.³²⁰ In 2018, joint registration offices were established in Tiraspol and Rybnica for registering vehicles from Transnistria. These offices issue neutral-design license plates with Moldovan stickers for the registered cars. License plates comply with the standards of the Vienna Convention on Road Traffic.

During the COVID-19 pandemic, the *de facto* authorities in the Transnistrian region also imposed some restrictions on freedom of movement. Specifically, checkpoints on the border were gradually and unilaterally closed for individuals without 'Transnistrian citizenship'. Entry into the territory required confirmation at police stations using electronic cards.³²¹ At the same time, the Republic of Moldova did not impose restrictions and tried to expand humanitarian aid.³²² Border restrictions have had a detrimental impact on public life within Transnistria. During the pandemic, it became challenging to transport medical personnel and essential medical supplies to the region. The *de facto* authorities not only closed the border with Moldovan-controlled territory but also with Ukraine, thereby preventing thousands of elderly individuals from receiving their pensions from the Russian Federation.³²³

The situation at the checkpoints

To maintain the security zone and order in Transnistria, 375 of the peacekeepers deployed in the region under the mandate of the Joint Control Commission (JCC) are from the Russian Federation, 296 are from Moldova, and 336 are from Transnistria. Additionally, there are 10 military observers from Ukraine.³²⁴ However, agreement between the parties on many issues remains challenging, and the security zone regime is systematically violated, particularly by the Transnistrian military and the Russian military contingent.

³¹⁹ Thomas De Vaal, *Uncertain Ground*, 45.

³²⁰ Socor Vladimir, *Moldova Extricates From Russian-Dominated Process of Negotiations on Transnistria*, Eurasia Daily Monitor, Volume 20., Issue 33., 2023. Available at: <https://jamestown.org/program/moldova-extricates-from-russian-dominated-process-of-negotiations-on-transnistria-part-one>

³²¹ Ibid.

³²² The impact of COVID on the conflicts in the EU eastern neighborhood., *European View*, p.98. Available at: <https://journals.sagepub.com/doi/pdf/10.1177/1781685821999848>

³²³ Ibid, p. 97.

³²⁴ Victoria Rosa., *30 years searching for Settlement*, SCEEUS, 2012.12.

The Moldovan state does not acknowledge the presence of a border with Transnistria. Consequently, control within the administrative border zone is solely conducted by *de facto* authorities. No visa regime is imposed by the *de facto* government, and border crossings are facilitated through completion of immigration cards available at checkpoints. The entry and exit regulations for Transnistria are governed by the Law of the Pridnestrovian Moldovan Republic on the Legal Status of Foreign Citizens.³²⁵

According to the law, individuals crossing the *de facto* border must present a passport and identification card from any country, proof of statelessness, or a residency certificate from the Pridnestrovian Moldovan Republic (PMR).³²⁶ Upon document verification, individuals proceed to the immigration control post, where they complete an immigration card. Subsequently, the officer enters the data into an electronic database and forwards it to the alleged 'ministry of immigration' of the PMR, which issues a second immigration card indicating the date of departure from the territory. Foreign citizens receiving an immigration card are required to register within 24 hours at their place of residence and notify the *de facto* internal affairs authorities accordingly.³²⁷

A citizen of any country, including Moldova, may cross the *de facto* border using an ID card. Upon completing the electronic immigration card, they are permitted to stay in the territory of Transnistria for 45 days, with the possibility of extending their stay upon request. However, a person may be refused entry to the territory based on the act issued by the relevant *de facto* agencies. Non-Moldovan citizens are subject to stricter controls upon entry. According to *de facto* laws, individuals without a passport from the Pridnestrovian Moldovan Republic are considered foreign citizens when crossing the border.³²⁸

Due to these regulations, daily traffic at checkpoints is relatively unrestricted compared to other post-Soviet frozen conflicts, enabling people to traverse the demarcation line.³²⁹ However, despite the relatively lenient traffic regime, the region's volatile political situation occasionally impacts freedom of movement.

According to a 2021 report by the Stockholm Center for Eastern European Studies (SCEEUS), the security zone has seen an increase in the number of Transnistrian so-called border guards, who prevent the free movement of individuals and goods. This issue is not discussed at the level of political negotiations, as the Russian Federation deliberately excludes it from the agenda for various reasons. Also, violations such as kidnappings, illegal arrests, and operations conducted by Tiraspol's semi-regular division, known as the Operative Group of Russian Forces (OGRF), are concerning.³³⁰

³²⁵ Law of the Prednistrovian Moldavian Republic on the legal status of citizens of foreign countries and the rules of movement in the territory (de facto) <http://zakon-pmr.com/DetailDoc.aspx?document=44010>

³²⁶ Ibid.

³²⁷ Ibid.

³²⁸ Law of the Prednistrovian Moldavian Republic. Available at: <http://zakon-pmr.com/DetailDoc.aspx?document=62610>

³²⁹ Thomas De Vaal. Uncertain Ground -Engaging With Europe's De Facto States and Breakaway Territories, Carnegie Europe, 2018, 35.

³³⁰ Ibid.

In 2016-2021, the *de facto* authorities of Transnistria tightened border control. Repressive measures, including the non-admission of specific persons or organizations, were implemented without explanation. For example, since 2015, the Promo-LEX association has not been banned from entering the region because, according to the Security Service, it posed a threat of destabilizing the situation in the region.³³¹ Promo-LEX Association is a non-governmental organization working on human rights issues, which supervises the protection of human rights, monitors the development of democratic processes and helps to strengthen civil society in the territory of Moldova, including the Transnistria region.

A 2016 study by the European Parliament's Directorate-General for External Policy also noted that the issue of freedom of movement was at stake at that time. Citizens of the Republic of Moldova were forbidden to cross the border without any justification. It was impossible for Moldova to prevent this, because they did not have access to the ban list compiled by Transnistria. In the same research document, there are also cases where Moldovan citizens could not cross from the left bank of the Dnieper to the right bank, i.e. enter the uncontrolled territory of Moldova where they lived. It is also highlighted that Moldova has minimal institutional cooperation with the *de facto* authorities, as such cooperation could potentially undermine Moldova's policy of non-recognition.³³²

According to the US State Department's 2022 report, *de facto* authorities continue to restrict traffic in the region. In April 2022, additional checkpoints were opened, and *de facto* police authorities further intensified controls. Moreover, the so-called simplified internal border crossing procedures for Easter holidays and diplomatic missions were abolished. Despite Moldova's condemnation of Transnistria's decisions regarding the restriction of freedom of movement and its active pursuit of this issue in negotiations, the *de facto* authorities of Transnistria do not engage in cooperation with Moldova on this matter. As of July 2022, the OSCE mission confirms the facts of restrictions on freedom of movement in the region.³³³

The issue of granting citizenship

According to Moldovan legislation, citizenship is granted to the population living in the Transnistria region based on a written application and submission of a civil document.³³⁴ After the signing of the Association Agreement between Moldova and the European Union and the implementation of visa-free movement within the European Union, holding Moldovan passports has become even more advantageous for the population residing in the region in terms of mobility. Accordingly, since 2014, the number of applicants for Moldovan passports has increased and amounted to 300 thousand people.³³⁵ It should be noted that in 2015, the Romanian law was reformed, as a result of which the population of the Transnistria region was granted the right to request Romanian citizenship. It should be noted that in 2015, amendments were made to the Romanian citizenship law, granting the population of the Transnistria region the right to apply

³³¹ Republic of Moldova, 3rd cycle of Universal Periodic Review, United Nations Human Rights Council, 2021.

³³² Policy Department, Directorate-General for External Policies, Study: Frozen Conflicts of the EU's Eastern Neighbourhood and their impact on the respect of human rights, 2016 p.17. Available at: [https://www.europarl.europa.eu/thinktank/en/document/EXPO_STU\(2016\)578001](https://www.europarl.europa.eu/thinktank/en/document/EXPO_STU(2016)578001)

³³³ Moldova 2022 Human Rights Report., US State Departments., 2022.

³³⁴ The Republic of Moldova, official statement of 28 April 2023. Available at: <https://gov.md/ro/content/aproape-354-de-mii-de-locuitori-din-regiunea-transnistreana-detin-cetatenia-republicii?fbclid=IwAR1NU9tqQNINpY9jiRptbF70b4H7kDqgfjHTrgnn8aGac6vWJOKE27W4V8>

³³⁵ Passportization in Transnistria., Sbar. Available at: https://cbap.cz/archiv/4657#_ftn16

for Romanian citizenship.³³⁶ According to the 2023 official statistics of the Public Services Agency of Moldova, 362,926 people are registered in the Transnistria region. Of these, 353,877 persons have Moldovan citizenship, 331,321 persons have a Moldovan passport, and 295,505 persons have an identification document valid only within the Republic of Moldova.³³⁷ The influence of the Russian Federation in the region is also high. Despite Moldova's efforts to prevent the Russian consulate from functioning, it still issues Russian passports in Tiraspol. As of 2022, there were 20,000 people waiting to renew their Russian passports, and 60,000 people wanted to obtain citizenship.³³⁸

It should be noted that for the purpose of peace negotiations or neutralization of the situation in the conflict region, Moldova pursues a relatively soft policy, which can also be seen in the law adopted in 2005 on the special legal status of the settlement on the left bank of the Dniester River (Transdniestria). In 2009, the Venice Commission compared this law with Georgia's law on Occupied Territories. The conclusion of the Venice Commission states that, unlike the Georgian law, the Moldovan law does not have a punitive nature; rather, it serves as an element of trust-building in the context of conflict resolution, granting the separatist regime a special autonomous status within the Republic of Moldova.³³⁹ The law does not impose restrictions on relations and movement in the territory outside its control, but rather establishes its special legal status upon its return to Moldovan jurisdiction, once it is demilitarized from Russian forces. The law grants Transnistria autonomous status and delineates a set of powers and rules regarding governance. Therefore, we can conclude that Moldova has a softer approach towards the Transnistrian region, although it also defends the policy of non-recognition; although it should be noted that the independence of Transnistria is not recognized by the Russian Federation either, and, in this regard, the political situation between Georgia and Moldova is different.

Nowadays, everyone uses multiple citizenships to move around the region. The PMR's *de facto* law on citizenship also provides for dual citizenship, where in case of citizenship of another country, a person is not deprived of so-called Transnistrian citizenship.³⁴⁰ The population living in the region usually has several passports, among which, in addition to Moldovan, Transnistrian and Russian, there is also Romanian.

International movement from Transnistria

Residents of the Transnistrian region can only cross the international border through Chisinau airport. Amidst the Russia-Ukraine war, Ukraine closed its border with Transnistria in 2022. As of August 2022, Moldova has implemented a notification-permitting mechanism for Chisinau Airport. This mechanism applies solely to individuals holding positions in the *de facto* Pridnestrovian Moldovan Republic, who need to travel internationally for business purposes.

³³⁶ Ibid.

³³⁷ The Republic of Moldova, official statement of 28 April 2023. Available at: <https://gov.md/ro/content/aproape-354-de-mii-de-locuitori-din-regiunea-transnistreana-detin-cetatenia-republicii?fbclid=IwAR1NU9tqQNINpY9ijRptbF70b4H7kDqgfjyHTrgnn8aGac6vWJOKE27W4V8>

³³⁸ 60,000 residents are waiting for a Russian passport in Transnistria, Radio Liberty, July 19, 2022 available at: https://moldova.europalibera.org/a/peste-60-000-de-locuitori-ai-regiunii-transnistrene-stau-la-coada-C4%83-dup%C4%83-cet%C4%83%C8%9Bena-rus%C4%83-/31950143.html?fbclid=IwAR2WYyd10-tfnnuE82-lzlgqNHVD8gA2qYsDT858RGoexUb_2gBipyLkJfA

³³⁹ Piranishvili Teona, Assessment of the Law on Occupied Territories from Rights and Humanitarian Perspectives, Center for Social Justice, 2020, p. 6.

³⁴⁰ 'Law of the Pridnestrovian Moldavian Republic on Citizenship' (*de facto*) [available at: <http://zakon-pmr.com/DetailDoc.aspx?document=62610>]

Moldovan authorities assert that the new mechanism is not intended to restrict freedom of movement, but rather was implemented in response to Russia's commencement of hostilities in Ukraine.³⁴¹

The practical option of possessing multiple passports simultaneously facilitates international border crossings for the population residing in Transnistria, particularly within the territory of the European Union. This became notably advantageous after the establishment of visa-free travel between Moldova and the European Union through the Association Agreement. Consequently, there has been an increased demand for Moldovan passports in Transnistria.³⁴² It should be noted that in the region of Transnistria, compared to the conflict regions of Georgia and Ukraine, the policy of the European Union is less rigid. The European Commission's 2022 decision regarding the non-recognition of Russian passports issued in Abkhazia, South Ossetia, Donetsk, and Luhansk regions does not extend to Transnistria.³⁴³

Opinions expressed by the organizations on human rights violations

Various organizations have been monitoring the human rights situation in Transnistria for years, including the situation in terms of freedom of movement at checkpoints. Freedom House, in their 2016 report on Transnistria, observed that *de facto* officials at checkpoints frequently detained and interrogated passengers. In certain instances, they demanded money or goods in exchange for passage through the checkpoint.³⁴⁴

According to the US State Department's 2022 report, cases of human rights violations in almost all areas of public life are frequent in the Transnistria region, including cases of forced disappearances, illegal detentions, and restrictions on freedom of movement.³⁴⁵

Although the *de facto* authorities investigate instances of human rights violations, they do not prosecute individuals who are found to have engaged in corrupt activities or violated human rights while performing official duties. Impunity remains a significant issue within the region.³⁴⁶

According to the Promo-LEX report, after the war in Ukraine, the movement of representatives of the *de facto* government across the border became stricter. From August 2022, leaders can cross Moldova's international border only with permission from the Bureau of Reintegration Policy. The bureau launched a new mechanism for crossing the state border, which also involves the use of Chisinau International Airport. However, the effectiveness of this mechanism is weak, as Tiraspol continues to maintain flights to Moscow.³⁴⁷ Recently, the main topics of the meetings between Tiraspol and Moscow are the rapprochement of the region with Russia in various

³⁴¹ Moldova bans work trips by officials from Breakaway regions., BIRN., 1 august 2022., [<https://balkaninsight.com/2022/08/12/moldova-bans-work-trips-by-officials-from-breakaway-transnistria/>]

³⁴² Country Policy and Information Note: Moldova: Human Rights in Transnistria., p. 31. <https://www.refworld.org/pdfid/59439c794.pdf>

³⁴³ Decision of the European Parliament and the Council., 2022/0274 (COD)., <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022PC0662>

³⁴⁴ Country Policy and Information Note: Moldova: Human Rights in Transnistria., p. 31. <https://www.refworld.org/pdfid/59439c794.pdf>

³⁴⁵ Moldova 2022 human rights report., US State Department., 2.

³⁴⁶ Moldova 2022 Human Rights Report., US State Department., 2022.

³⁴⁷ Promo-LEX, Report on Human Rights in the Transnistrian region of the republic of Moldova., 2022. Available at: <https://promolex.md/wp-content/uploads/2022/12/Report-Human-rights-in-the-Transnistrian-region-of-the-Republic-of-Moldova.pdf>

directions, among them, negotiations are underway regarding the issuance of Russian passports.³⁴⁸ In addition, the unauthorized addition of checkpoints by Transnistria has led to numerous complications, including threats to human life and health, as well as disruptions in the smooth movement of goods and people. Checkpoints fortified by military units do not comply with the terms of the ceasefire agreement and prevent the freedom of movement guaranteed by the agreement. The same information is confirmed by the OSCE mission³⁴⁹

Summary

Analyzing this experience, it becomes evident that Moldova's relatively lenient non-recognition policy allows for a more flexible movement regime compared to Georgia. However, similar to Georgia, Moldova also faces episodic violations, illegal detentions, and instances of restricted freedom of movement, as indicated by numerous legal monitoring reports. The presence of a negotiation and dialogue framework between Moldova's central authorities and Transnistria's *de facto* authorities provides an institutional platform for addressing these challenges. This framework creates a space for discussing issues related to freedom of movement.

3.2. Cyprus

A brief historical overview of the conflict

The conflict in Northern Cyprus is one of the oldest unresolved ethno-political and separatist conflicts, dating back to the 19th century.³⁵⁰ The roots of today's conflict can be traced back to the period of British colonial rule, when Cypriots started an anti-colonial movement. The anti-colonial movement, fueled by the so-called *enosis* enthusiasm for union with Greece, was consistently rejected by the British Empire.³⁵¹ The enthusiasm of the Greek population of the island for political union with Greece reached its climax in 1955, when the Cypriots founded the army EOKA (Ethniki Organosis Kypriou Agoniston) - the national organization of Cypriot fighters.³⁵² It was a military group that aimed at self-determination for Cyprus, advocating for unification with Greece, a stance strongly opposed by Great Britain and Turkish Cypriots, who comprised 18% of the island's total population. Such events were followed by the reaction of the Turkish Cypriots. With British support, an antagonistic movement known as Taxim was formed. The division of the island into Turkish and Greek parts can be counted from this period.³⁵³ Controversy subsided in 1959 with the Treaty of Zurich and London, which included an agreement on the constitution of an independent Republic of Cyprus, as well as the maintenance of British bases in the two regions of Cyprus, despite the decolonization process.³⁵⁴ The Cypriot constitution has completely banned any initiative that would lead to the division of the island's population, in other words, the so-called *enosis* and Taxim activities have been banned.³⁵⁵

³⁴⁸ Ibid.

³⁴⁹ Ibid.

³⁵⁰ Heraclides Alexis, 'The Cyprus Gordian Knot: An Intractable Ethnic Conflict', (2011) 17 Nationalism and Ethnic Politics, 118.

³⁵¹ Yiangou Anastasia, 'Decolonization in the Eastern Mediterranean: Britain and the Cyprus Question, 1945-1960', (2020) Cahiers du Centre d'Études Chypriotes 50-, 45-63.

³⁵² Encyclopædia Britannica: EOKA - <https://www.britannica.com/topic/EOKA> accessed 17 February, 2022

³⁵³ Coppieters, 66.

³⁵⁴ London-Zurich Treaty 1959; Heraclides, 120.

³⁵⁵ Treaty of Guarantee, 1960. Article 1, https://peacemaker.un.org/sites/peacemaker.un.org/files/CY%20GR%20TR_600816_Treaty%20of%20Guarantee.pdf

Greece, Great Britain, and Turkey, as guarantor states, committed to safeguarding the independence, territorial integrity, and security of the Republic of Cyprus. The constitution of 1960 allocated power evenly between Greek and Turkish Cypriots and acknowledged the equality of both communities. However, Greek Cypriots deemed the equal power-sharing arrangement unacceptable as Turkish Cypriots represented only 18% of the population. This disagreement prompted discussions about constitutional amendments and the concept of establishing a bi-communal republic, where Turkish Cypriots would hold minority status along with corresponding rights.³⁵⁶

Military tensions between Turkish and Greek Cypriots escalated in 1963, culminating in a full-scale military conflict in 1974, during which Turkish Republic troops became fully engaged.³⁵⁷ This conflict resulted in the division of the island into two parts. The Turkish Republic of Northern Cyprus (TRNC) proclaimed itself an independent republic, a status recognized solely by Turkey. Approximately 140,000 to 160,000 Greek Cypriots were displaced from Northern Cyprus, while around 60,000 Turkish Cypriots relocated from the south to the north. These population movements led to ethnic cleansing in both regions.³⁵⁸

Peace negotiations and international involvement

The conflict remains unresolved to this day, as various initiatives and alternatives to resolve the conflict have been consistently rejected by either party to the conflict. From the very beginning of the conflict, international actors and organizations were involved in this process, acting as facilitators of negotiations between the conflicting parties and creating a neutral space for dialogue. In 1975, the United Nations proposed the creation of a two-zone, two-community federation to the parties involved³⁵⁹, initiating several rounds of negotiations. However, significant political issues remained unresolved, preventing the parties from reaching a consensus.³⁶⁰

The plan put forth by UN Secretary-General Kofi Annan is widely regarded as the most realistic and comprehensive proposal to date for resolving the conflict. Despite its potential, this plan ultimately failed to gain traction. It emphasized the role of the European Union and the prospect of membership as a potential avenue for conflict resolution. However, due to the refusal of the Greek Cypriots in the referendum, the united Cyprus failed to join the European Union, while the Turkish Cypriots agreed to such a union. Since Cyprus became a member of the European Union at last in 2004, the chances of resolving the conflict have significantly decreased.

While the European Union wasn't able to mediate the conflict directly, it began actively preparing the Turkish-controlled part of Cyprus for potential EU membership starting in 2004. This preparation is contingent upon the resolution of the conflict and the reunification of the island.³⁶¹ To achieve this, the European Union initiated three initiatives in 2004, one of which

³⁵⁶ Coppieters, 68.

³⁵⁷ Bebler, 122.

³⁵⁸ Bryant Rebecca, 'Life Stories: Turkish Cypriot Community, Displacement in Cyprus Consequences of Civil and Military Strife', (2012) 2 PRIO Cyprus Centre, 6-10; Coppieters, 70.

³⁵⁹ Stephen Michael, 'The European court of human rights and Cyprus' (1997) Contemporary Review, 70

³⁶⁰ Coppieters, at 75.

³⁶¹ Sozen Ahmet (ed), *Reflections on the Cyprus Problem: A Compilation of Recent Academic Contributions* (2007), 2-17.

pertains to the regulation of movement, known as the Green Line Regulation; Others include a direct trade agreement (which was blocked by the Greek Cypriots) and financial aid for Northern Cyprus. The northern part of Cyprus will not be subject to EU law until the Republic of Cyprus regains control over it. However, Cypriot citizens living in Northern Cyprus enjoy the same rights and opportunities as nationals of a member state, even though they do not live in government-controlled territory.³⁶²

In addition to the European Union, the international involvement of the United Nations in Northern Cyprus continues. The UN peacekeeping mission UNFICYP remains the main actor whose mandate includes: preventing a recurrence of fighting, contributing to the maintenance and restoration of law and order, and contributing to a return to normal conditions.³⁶³ The UN peacekeeping mission is actively involved in facilitating daily communication and interaction between the parties to the conflict. In this regard, 11 thematic bicommunal committees operate, where together with the UN representative, representatives of both communities discuss the daily needs and interests of the population living in conflict conditions. Thematic committees are created on the following issues; culture, humanitarian issues, education, health, commercial issues, criminal justice issues, checkpoints/movement, environmental protection, broadcasting, gender equality, cultural heritage.³⁶⁴ Assessed in the annual reports of the United Nations. The work of technical committees, especially in relation to education, health, transport and cultural heritage issues, has been positively evaluated in the annual reports of the United Nations.³⁶⁵

Dynamics of policy and law related to movement regime

The Green Line Regulation was the first initiative that the European Union put on the agenda after Cyprus became a member state, and it was successfully implemented. This can be seen as a kind of recognition that the issue of movement in the context of protracted conflict is one of the most high-priority rights issues that are critical for people to continue their normal lives. The term Green Line refers to the ceasefire line that *de facto* divides Cyprus. It was first established in 1964 when Major General Peter Young was the commander of the Peacekeeping Force, the forerunner of today's UNFICYP. After deploying the troops in various areas of Nicosia, the General drew a cease-fire line on the map with a green colored pencil, which later became known as the Green Line. After 1974, the Green Line was extended and today it covers 300 km.

The Green Line Regulation (GLR) came into force on May 1, 2004³⁶⁶, and since then it has been amended 6 times. The GLR provides special rules for how people will cross the dividing line between controlled and non-controlled areas, rules for cargo transportation, as well as special modes of access to services. The GLR preamble states that since the administrative line with the non-controlled territory of the Republic of Cyprus does not constitute an EU external border (since the EU only recognizes the borders of the united Cyprus), this regulation defines a special rule of movement. In addition, the European Commission obliges the Republic of Cyprus to notify

³⁶² <https://www.mof.gov.cy/mof/customs/customs.nsf/All/05AEEF243C9BFC8BC22572BF002D0A28>

³⁶³ UNFICYP MANDATE <https://unficyp.unmissions.org/unficyp-mandate>

³⁶⁴ UNFICYP, Technical Committees, <https://uncyprustalks.unmissions.org/technical-committees-0> accessed 18 March, 2020

³⁶⁵ UNCHR, 'Report on the question of human rights in Cyprus' (2014), para 41; UNCHR, 'Report on the question of human rights in Cyprus' (2021) A/HRC/46/23, paras 5,57; UNCHR, 'Report on the question of human rights in Cyprus' (2019) A/HRC/40/22, paras 45-62.

³⁶⁶ COUNCIL REGULATION (EC) No 866/2004 of 29 April 2004 on a regime under Article 2 of Protocol 10 to the Act of Accession

in advance any changes related to the movement regime, in order to eliminate any non-compliance with the regulation.

According to the Article 1 of the same regulation, third-country nationals (citizens of non-EU countries) may cross the checkpoints on the green line if they hold a residence permit or visa of the Republic of Cyprus and do not pose a threat to public order.

Changes to the Green Line regulation were implemented at various times, including since 2005 when procedures related to trade in agricultural and animal products were simplified.³⁶⁷ Specifically, the requirement to declare customs for importing products from the non-controlled territory was eliminated, and customs duties were waived if the products were not intended for export. The transport of animal products and live animals over the Green Line is prohibited (except for fish products, including those for commercial purposes), although exclusions may be permitted if the relevant EU regulations are met.. Also, transfer of fish for commercial purposes is allowed only from 1 checkpoint (Agios Dometios checkpoint).

Also, after this change, personal cargo that does not exceed 135 Euros is not taxed at the time of transfer. Regarding the quantitative limits, it is allowed to carry 1 liter of alcoholic beverages and 40 cigarettes, which will be exempted from excise duties.

In 2005, two additional changes were introduced to the GLR, on the basis of which a total of 5 checkpoints were opened, including one in the city center of Nicosia, on Ledra Street.

According to the amendment of 2008, the value of personal cargo increased from 135 Euros to 260 Euros, due to the improvement of the economic situation of the residents of Northern Cyprus.³⁶⁸ This amount of goods can be carried by one person at any checkpoint on the Green Line, free of excise or other taxes. The regulation implemented since 2005 regarding cigarettes and alcohol was retained. In addition, the transfer of cut tobacco from the controlled territory of Cyprus to North Cyprus is prohibited.

In the same cycle of changes, customs duties on agricultural products produced in Northern Cyprus were completely abolished. In addition, cargo entering the controlled part of the Republic of Cyprus from an uncontrolled territory must be accompanied by a certificate issued by the TRNC Chamber of Commerce confirming that a particular product is produced in an uncontrolled territory. Thus, the Republic of Cyprus and the European Union aimed to prevent products produced in the Republic of Turkey from entering the territory of the European Union for commercial purposes. The transfer of particular individual products according to the regulation is prohibited in the controlled area. Among them are cement, waste (if there is no relevant environmental protection permit and the waste is not handed over to the relevant waste processing facility on the same day after delivery to the controlled area), controlled pharmaceutical products (narcotics and psychotropic substances, as well as doping steroids). However, it is allowed to carry medical products for personal use, which are intended for treatment within a period of 1 month, and if it is accompanied by an appropriate prescription

³⁶⁷COUNCIL REGULATION (EC) No 293/2005 of 17 February 2005 amending Regulation (EC) No 866/2004 on a regime under Article 2 of Protocol 10 to the Act of Accession as regards agriculture and facilities for persons crossing the line: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:050:0001:0002:EN:PDF>

³⁶⁸ The Regulation (EC) no. 587/2008.

(special form CP#4).³⁶⁹ Also, the transfer of plastic material (including plasma vessels) is prohibited under the 2022 EU regulation. In order to prevent infectious and contagious diseases, the transfer of special plants is prohibited too.

In 2015, two additional checkpoints were opened (Lefka-Apiki and Deryneia).³⁷⁰ As of today, 9 checkpoints are indicated in the annex to the regulation, of which two checkpoints in the city of Nicosia are open only for pedestrians and cannot be used by vehicles (due to the infrastructure of the city (narrow streets)). In addition, it is planned to open two more points.

In June 2023, Brussels published its annual report on the implementation of the Green Line regulation, noting a significant increase in movement and trade in 2022 compared to 2021, indicating a return to pre-pandemic levels. In particular, trade increased by 138%, reaching a record amount of 14.6 million Euros, while in 2021 this figure was 6.2 million Euros. Regarding traffic, in 2022 up to 6 million Greek and Turkish Cypriots, as well as EU citizens and third-country nationals crossed the checkpoints on the Green Line, while in 2021 the figure was 2.3 million. In 2022, the financial support of the European Union for Northern Cyprus amounted to 33.4 million Euros, and the scholarship program was also continued. From 2007 until today, more than 2,000 residents of Northern Cyprus had the opportunity to receive funding to study at universities in the EU member states. The EU will also continue to support Turkish Cypriots in ensuring that their traditionally produced cheese (halloumi) complies with EU food safety regulations, allowing Turkish Cypriots to trade this product in the EU market by crossing the Green Line.³⁷¹

Regarding international movement, Turkish Cypriots obtain a Republic of Cyprus citizen's passport with which they can move freely within Europe. Although the TRNC is not recognized by the EU, its citizens still enjoy the benefits of EU citizenship. The only exception to this are the Turks who were resettled by Turkey in Northern Cyprus after the armed conflict, they cannot easily obtain Cypriot citizenship, even if a person has one parent from Northern Cyprus and the other from Turkey, he/she cannot obtain a Cypriot passport.³⁷² Turkish Cypriots whose parents were born before 1974 get a passport more easily than those born after 1974.³⁷³

In addition to the Republic of Cyprus passport, Turkish Cypriots with a TRNC passport can also travel to France, Great Britain and the USA, as the consular offices in Nicosia issue the relevant visas.³⁷⁴ TRNC passports are in this case accepted as travel documents and not as official government documents, in order to avoid official recognition of the TRNC.

Chapter 4 - Conclusion and recommendations

³⁶⁹

[https://www.mof.gov.cy/mof/customs/customs.nsf/All/C4B4565429AB70CA422577B30029C6BB/\\$file/CP4_EN.pdf?OpenElement](https://www.mof.gov.cy/mof/customs/customs.nsf/All/C4B4565429AB70CA422577B30029C6BB/$file/CP4_EN.pdf?OpenElement)

³⁷⁰ The Regulation (EU) no. 2015/1472,

³⁷¹ https://commission.europa.eu/publications/annual-report-2022-implementation-green-line-regulation_en

³⁷² De Vaal Thomas, Uncertain Grounds 55.

³⁷³ US State Department Report, Cyprus, 2007, Section 2(d) , US State Department Report, Cyprus, 2015, Section 2(d) etc.

³⁷⁴ De Vaal Thomas, Uncertain Grounds 53.

The study reaffirmed that restrictions on movement, excessive control, and isolation are shared concerns among all parties involved in the protracted conflict. Such restrictions not only impact the security, legal, and social status of all conflict-affected groups, but also present an opportunity for policy change that can benefit all parties. It is evident that addressing these issues can not only alleviate the hardships faced by specific social groups, but also transform the conflicts themselves. This is particularly true in the context of freedom of movement, which has the potential to foster inter-community reconciliation, enhance connections, and promote social, economic, and cultural interdependence. Even after almost 40 years of history of conflicts, it is clear that the communities living on both sides of the dividing line, despite the isolation, do not lose their ties and common interests. Addressing problems related to freedom of movement can help restore the damaged social fabric, improve economic well-being, access to basic services and create new opportunities for development..

It is crucial for the state of Georgia and its international partners to recognize that alongside occupation and the prevailing political and military challenges, the enduring reality of conflict and war significantly strains inter-communal relations. Over time, these conflicts erode the bonds and relationships that once existed within divided societies. Isolation, alienation and loss of interest in each other are severe consequences of ongoing conflicts that have long-term and irreversible negative effects on trust building and conflict transformation. That is why prioritizing issues of freedom of movement not only has the ability to overcome current challenges, but also creates completely new resources for cooperation and building connections for the future.

The current political context must also be carefully considered. Following Russia's escalation to a full-scale war in Ukraine, its political and economic interests in the regions of Abkhazia and South Ossetia have heightened. Amidst economic sanctions, Russia's pursuit of peripheral markets intensifies, often leading to aggressive decisions aimed at exploiting local resources. These trends are notably pronounced in the region of Abkhazia, where they face opposition from local civil society. Against the backdrop of these escalating absorption trends, it is crucial for Georgia and its partners to recognize the significance of a bold, innovative initiative in conflict transformation politics. Such an initiative could potentially shift the current crisis and usher in new perspectives.

During the research, interviews with experts, civil, and official actors involved in the peacebuilding process clearly revealed that at no stage of the dialogue and international negotiations were any alternatives discussed that would address the common interests and concerns regarding freedom of movement. As experts directly involved in negotiations and peace processes, including former government officials, confirm, there has not been a single initiative on the issue of movement within the country or abroad that would offer a transformative, alternative vision to the parties to the conflict while respecting the so-called red lines. Such a political impasse to resolve a basic legal and social issue may even seem illogical, while its resolution is in the interest of all parties to the conflict.

Indeed, the study of the dynamics of the movement regime and the historical perspective reveals that as time passes, the legal and social situation in this regard gets worse, the political stalemate deepens, and the positions and opinions between the parties to the conflict become more distant from each other. As the research revealed, the first aggravation and radical deterioration of the movement regime with the conflict regions followed the August 2008 war. The second stage of the situation deterioration occurred in 2016-2017 in the direction of Abkhazia and in 2019 in the direction of the Tskhinvali region. These are the years when the *de facto* and occupation regimes

made new decisions to erect physical barriers between the societies on the dividing lines, although it should be noted that this process continues continuously within the framework of borderization and artificial barriers, the so-called 'border marking' process.

After studying the existing problems regarding freedom of movement, several systemic issues can be outlined. On the one hand, *political-legal barriers* encompass discriminatory bureaucratic and legal hurdles established by the de facto regimes. These obstacles prevent the Georgian population residing in conflict regions from moving to Georgia-controlled territory, and vice versa. The main challenge faced by the affected population relates to the documents required for movement. These requirements are constantly changing, exacerbating the difficulties faced by the population. Adapting to these changes consumes significant financial and time resources, leading to an unstable existence for those living in and around conflict regions. Additionally, this process often entails discriminatory and degrading experiences. On the other hand, international and national legal barriers arise from non-recognition policies, which restrict the international travel of people residing in conflict regions.

Infrastructural/physical barriers, which include separating people living along dividing lines with artificial barriers, illegal bordering, which involves the placement of barbed wire, banners, fences, and other installations. Physical barriers also include the so-called checkpoints, which are illegal in their essence and, therefore, illegitimately limit the possibilities of movement within the country. The movement regime created at the checkpoints is clearly restrictive. At the same time, the use of these checkpoints as a political weapon, the practice of arbitrary blocking and, in general, the arbitrary change of the movement regime create a difficult reality from a legal and social point of view. Physical barriers include geographical barriers, which are often tried to be crossed in the direction of Abkhazia by those who cannot cross the so-called official checkpoints. The reason for this can be of two types: lack of documents or unexpected blocking of checkpoints. Overcoming the mentioned geographical barriers (mainly the river) cost life and health in many cases.

The factor of *corruption barriers*, which people encounter when obtaining the right to movement and during actual movement, deserves special attention depending on its importance and scale. This category of systemic problems encompasses the process of issuing documents required for movement by *de facto* regimes (such as residence certificates and passes), which are practically impossible to obtain without local contacts, financial resources, and bribes. Otherwise, individuals may face indefinite waiting periods or be denied documents altogether. Additionally, doubts and mistrust are raised by the current situation in the controlled territory of Georgia, particularly regarding cargo transportation and imports in the non-controlled territory. As research has shown, this issue is not clearly regulated by national legislation and any cargo transfer requires the use of informal procedures. It should also be emphasized here that the practice of checking people on the part of Georgian law enforcement officers takes such intense forms that it often even equates to a search. These procedures are carried out without any regulation and guarantees of legal protection.

The research also indicates that vulnerable groups, such as women, children, and the elderly, are disproportionately affected by these systemic problems. These are the groups who most often move across the dividing lines, for family and household needs, social assistance, education or pensions. The research revealed that women and girls are mainly the group that, in the absence of

relevant documents, risk the so-called illegal crossing of the border, including with minor children.

The population residing in Gali and Akhalkalaki warrants special attention in the context of freedom of movement implementation, as they continue to maintain strong ties with the state of Georgia despite residing in conflict zones for years. Moreover, this attitude towards the Georgian social and political system is so high that for the population of Gali and Akhalkalaki, the possibility of moving to the territory of Georgia is often of vital importance. That is why the systematic movement restriction has a heavy impact on the socio-economic and legal situation of this group. Their vulnerability is due to their dual affiliation with the *de facto* and central authorities.³⁷⁵

The findings of the research affirm that the Russian Federation and *de facto* administrations are accountable for establishing the illegal regime that restricts freedom of movement. They are responsible for implementing a discriminatory movement regime, aimed at separating the population along the dividing lines through the establishment of physical and political-legal barriers, all under their effective control and direct directives. However, the analysis of jurisprudence and practice of international human rights law reveals that freedom of movement belongs to the category of rights, where the state is obliged to take all possible positive measures for the effective implementation of the right, including the elimination of bureaucratic, administrative-legal barriers, which put an excessive burden on population residing in already illegal regime. The recommendations presented below on the part of the Georgian government are related to the implementation of these positive obligations.

It is crucial for the authorities of Georgia, as well as international actors and *de facto* authorities, to reframe the issue of freedom of movement beyond mere political dimensions and recognize its humanitarian and legal significance. Understanding that ensuring this right amidst ongoing conflict is essential for human security, as without its effective implementation, building trust becomes impossible. Recognizing and addressing the shared interests and concerns surrounding this right should serve as the impetus for transformative changes in this regard.

The altered geopolitical landscape amidst the Russia-Ukraine war, coupled with Georgia's enhanced prospects for European integration and the tightening of sanctions against Russia by Europe and the West, present new opportunities for bold initiatives aimed at transforming Georgia's conflicts. In this regard, it is obvious that in the conditions of protracted conflict, it is important to take consistent and small steps in the process of realizing rights, which ultimately aims to build trust between the parties to the conflict.

These changes and initiatives should primarily focus on easing the stringent regime of freedom of movement. The realization of this right is intertwined with restoring contacts, mobility, and movement between people, thereby addressing a myriad of socio-economic challenges. These include access to education, healthcare, humanitarian and social services/programs, as well as fostering personal and family connections. Changes and initiatives in these directions need to be viewed through the lens of mutual needs. Research has shown that a strict regime of freedom of movement negatively impacts the security, socio-economic, and legal status of all groups affected by war and conflict. In this altered geopolitical landscape, Georgia must seize the initiative and

³⁷⁵ Toria Malkhaz, *Gaul in Georgian and Abkhaz Historical Imaginations: An Anatomy of Double Marginality*, April 7, 2022.

demonstrate to all affected groups that its genuine interest lies in reflecting their real interests, concerns, and rights in peace policy.

Recommendations and visions

In the process of realizing freedom of movement, it is important for the Georgian authorities, together with international partners, especially the European Union, to offer new alternatives to the residents of conflict regions, both from a political and legal perspective, and from the point of view of institutional and infrastructural soundness, so that the mode of transportation both inside the country and abroad is free from political pressure. It is this approach that implies a peace approach based on a broad concept of humanitarian and human security. In particular, the implementation of such visions means taking such steps as:

In the process of realizing freedom of movement, it is important for the Georgian authorities, together with international partners, especially the European Union, to offer new alternatives to the residents of conflict regions. This should encompass both **political and legal perspectives, as well as considerations of institutional and infrastructural soundness**. The goal is to ensure that transportation modes, both within the country and abroad, are free from political pressure. This approach aligns with a broader concept of peace based on humanitarian and human security principles. Specifically, implementing such visions entails taking steps such as:

Political-legal measures

State of Georgia:

- With support of the European Union and other international partners, Georgia should develop a new strategy for conflict transformation and peace. This strategy should increase access to the benefits and opportunities arising from Georgia's integration into the European Union (1) and counter the aggressive annexation processes originating from Russia, and create viable social, economic, and legal alternatives for people living in conflict regions (2)
- Introduce a simplified procedure for determining Georgian citizenship for residents of Abkhazia and South Ossetia. The primary goal of this initiative is to increase their access to Georgian citizenship
- Amend Article 322¹ of the Criminal Code (violation of entry into occupied territories) and related criminal policy to abolish the rule of criminal punishment for illegal movement into occupied territories.
- To enhance the opportunities associated with the neutral travel document, the state of Georgia should actively negotiate with the European Union and its member states. This includes efforts to create visa-free travel opportunities for individuals holding the aforementioned documents within the Schengen area or in the territories of the relevant member states.
- To increase interest in neutral identity card and travel documents, the state of Georgia should link additional social packages and opportunities to these documents, including: the possibility of joining international education programs, the possibility of healthcare resources abroad, as well as social assistance mechanisms within the country (on pensions, for disabled persons and access to special support programs for other vulnerable groups).

- Recognize local identity documents issued by *de facto* authorities as Georgian travel documents and creates flexible conditions for movement through Georgia for people living in conflict regions with neighboring countries where it is already possible to travel with Georgian identity documents (Turkey, Armenia);
- Georgia should work on the format of direct dialogue with the Abkhazian and South Ossetian sides, through the mediation of the European Union, on the issues of freedom of movement. The goal of this dialogue will be the restoration of checkpoints, the reduction of strict bureaucratic requirements for movement, solving existing problems in terms of documentation, agreeing on alternatives for international movement, and allowing short visits for internally displaced persons (IDPs) to visit relatives and graves. It is important that the mentioned negotiation process be conducted with a prior agreement in accordance with political and status-neutral principles, which will be the main difference between this format and the existing formats (GID, IPRM).
- In various formats of political negotiations, Georgia should actively raise the issues of legal status and freedom of movement of people living in Gali and Akhagori. This is necessary to prevent systematic discrimination against the Georgian population and attempts at assimilation within the existing *de facto* legal order.
- Georgia should adopt a special regulation of cargo movement on the dividing line, an internal legal document. This internal legal document would specify the types and quantities of cargo permitted for transportation, as well as provide a detailed list of prohibited items. In this regard, considering the example of the regulation of the 'green line' introduced in the case of Cyprus would be an interesting and relevant alternative for the Georgian context.

International actors:

- The European Union should critically evaluate its current peace policy paradigm concerning Georgia, introduce and strengthen new tools and mechanisms of engagement for people living in conflict regions, provides support for direct dialogue formats between Tbilisi and Sukhumi, as well as between Tbilisi and Tskhinvali.
- The European Union should establish an active consultation process with civil society representatives from Georgian, Abkhazia, and South Ossetia/Tskhinvali regions., which creates a space for generating new initiatives for peace policy, as well as for enhancing human security and protecting human rights.

Institutional-infrastructure measures:

- Georgian authorities should define guiding principles and standards for searches and checks conducted by representatives of the Ministry of Internal Affairs at checkpoints, which should be aligned with the stated goals of peace building, human security, and reconciliation and incorporate gender-sensitive approaches. Training programs should be developed based on this manual to educate representatives of the Ministry of Internal Affairs and patrols operating at checkpoints, with the aim of enhancing their conflict sensitivity.
- Introduce information services at checkpoints or emergency hotline on what social, educational, health, and other support services are available to the conflict-

affected population, including people living along the dividing line, and how and through what procedures they can receive these services/programs.

- Develop infrastructure in villages near checkpoints, particularly for populations residing directly along the dividing line. This includes initiatives such as establishing small medical centers and pharmacies, mobilizing emergency medical teams, facilitating the opening of shops for access to essential household products, improving public transportation services, and implementing other infrastructure projects aimed at alleviating daily barriers for individuals living on both sides of the dividing line.
- Implement an effective and democratic early warning system in villages around the dividing line, which will address security concerns through a comprehensive and socially sensitive human security policy.
- Strengthen security measures in villages along the dividing line by increasing patrolling and police presence. Additionally, install appropriate video monitoring equipment to enhance surveillance capabilities.
- Develop social, economic, agricultural, and medical infrastructure in villages along the dividing line to improve access to essential services and social amenities for the local population.